

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

HOUSE BILL 998
PROPOSED COMMITTEE SUBSTITUTE H998-CSRbx-18 [v.3]

5/16/2013 3:55:32 PM

Short Title: Tax Simplification and Reduction Act.

(Public)

Sponsors:

Referred to:

April 18, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE INDIVIDUAL AND CORPORATE INCOME TAX RATES,
3 FRANCHISE TAX RATE, AND COMBINED STATE AND LOCAL SALES TAX RATE
4 AND TO EXPAND THE SALES TAX BASE TO INCLUDE SERVICES COMMONLY
5 TAXED IN OTHER STATES.

6 The General Assembly of North Carolina enacts:

7 **PART I. GENERAL FINDINGS AND INTENT**

8 **SECTION 1.(a)** The General Assembly of North Carolina finds the following:

- 9 (1) North Carolina's current tax structure has not been comprehensively revised
10 since the Great Depression. The tax structure adopted then, while amended
11 extensively over the years in a piecemeal fashion, no longer reflects North
12 Carolina's 21st Century economy.
13 (2) Over the years, the multiplication of credits, allowances, special rates, and
14 exemptions has progressively narrowed the base of the State's individual and
15 corporate income taxes, with the result that the rates for those income taxes
16 are now among the highest in our region and among our peer states.
17 (3) North Carolina's current tax structure undermines the State's competitive
18 position and acts as a deterrent to new business investment and the creation
19 of new jobs.
20 (4) The State's reliance on temporary and expedient tax changes to meet budget
21 shortfalls has created a tax structure that is unpredictable for taxpayers and a
22 revenue stream that is unstable for the State.

23 **SECTION 1.(b)** It is the intent of this legislation to do the following:

- 24 (1) Begin the implementation of comprehensive tax reform.
25 (2) Simplify the process of tax preparation and tax administration.
26 (3) Lower tax rates to make them more competitive with our neighboring states
27 and to make the tax system more economically efficient.
28 (4) Increase the State's reliance on consumption taxes by expanding the sales tax
29 base to include services commonly taxed in other states.

30 **SECTION 1.(c)** It is the intent of the North Carolina General Assembly to do the
31 following:

- 32 (1) Phase out the State's reliance on income taxes.
33 (2) Increase the State's reliance on consumption taxes.
34 (3) Evaluate the changes made by this act and their impact on the State's
35 revenue structure.
36



* H 9 9 8 - C S R B X - 1 8 - V - 3 *

PART II. SIMPLE, FLAT TAX RATE FOR INDIVIDUAL INCOME TAX

SECTION 2.1(a) G.S. 105-134.6(b)(22) reads as rewritten:

"(b) Deductions. – The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

...
 (22) An amount not to exceed ~~fifty thousand dollars (\$50,000)~~ twenty-five thousand dollars (\$25,000) of net business income the taxpayer receives during the taxable year. In the case of a married couple filing a joint return where both spouses receive or incur net business income, the maximum dollar amounts apply separately to each spouse's net business income, not to exceed a total of ~~one hundred thousand dollars (\$100,000)~~ fifty thousand dollars (\$50,000). For purposes of this subdivision, the term "business income" does not include income that is considered passive income under the Code."

SECTION 2.1(b) This section is effective for taxable years beginning on or after January 1, 2013.

SECTION 2.2.(a) G.S. 105-134.2 reads as rewritten:

"§ 105-134.2. Individual income tax imposed.

(a) Tax. – A tax is imposed upon for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages paid annually. The tax is five and nine-tenths percent (5.9%) of the taxpayer's North Carolina taxable income.

(1) ~~For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:~~

Over	Up To	Rate
0	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	NA	7.75%

(2) ~~For heads of households, as defined in section 2(b) of the Code:~~

Over	Up To	Rate
0	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	NA	7.75%

(3) ~~For unmarried individuals other than surviving spouses and heads of households:~~

Over	Up To	Rate
0	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	NA	7.75%

(4) ~~For married individuals who do not file a joint return under G.S. 105-152:~~

Over	Up To	Rate
0	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	NA	7.75%

(b) Withholding Tables. – In lieu of the tax imposed by subsection (a) of this section, there is imposed for each taxable year upon the North Carolina taxable income of every individual a tax determined under tables, applicable to the taxable year, which may be prescribed by the Secretary. The amounts of the tax determined under the tables shall be computed on the basis of the ~~rates~~ rate prescribed by subsection (a) of this section. This subsection does not apply to an individual making a return under section 443(a)(1) of the Code

1 for a period of less than 12 months on account of a change in the individual's annual accounting
 2 period, or to an estate or trust. The tax imposed by this subsection shall be treated as the tax
 3 imposed by subsection (a) of this section."

4 **SECTION 2.2.(b)** G.S. 105-134.6, as amended by S.L. 2013-10 and by Section 2.1
 5 of this act, reads as rewritten:

6 **§ 105-134.6. Modifications to adjusted gross income.**

7 ...
 8 (a1) ~~Personal Exemption.~~ In calculating North Carolina taxable income, a taxpayer
 9 may deduct an exemption amount equal to the amount listed in the table below based on the
 10 taxpayer's filing status and adjusted gross income. The taxpayer is allowed the same personal
 11 exemptions allowed under section 151 of the Code for the taxable year.

Filing Status	Adjusted Gross Income	Personal Exemption
Married, filing jointly	Up to \$100,000	\$2,500
	Over \$100,000	\$2,000
Head of Household	Up to \$80,000	\$2,500
	Over \$80,000	\$2,000
Single	Up to \$60,000	\$2,500
	Over \$60,000	\$2,000
Married, filing separately	Up to \$50,000	\$2,500
	Over \$50,000	\$2,000

12 (a2) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
 13 deduct either the North Carolina standard deduction amount ~~for that listed in the table below~~
 14 based on the taxpayer's filing status or the itemized deductions amount allowed under
 15 subsection (a3) of this section for interest paid or accrued with respect to a qualified residence
 16 and for charitable contributions, claimed under the Code. The North Carolina standard
 17 deduction amount is the lesser of the amount shown in the table below or the amount allowed
 18 under the Code. In the case of a married couple filing separate returns, a taxpayer may not
 19 deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims itemized
 20 deductions for State purposes.
 21

22 A taxpayer that deducts the standard deduction amount under this subsection and is entitled
 23 to an additional deduction amount under section 63(f) of the Code for the aged or blind may
 24 deduct an additional amount under this subsection. The additional amount the taxpayer may
 25 deduct is six hundred dollars (\$600.00) in the case of an individual who is married and seven
 26 hundred fifty dollars (\$750.00) in the case of an individual who is not married and is not a
 27 surviving spouse. The taxpayer is allowed the same number of additional amounts that the
 28 taxpayer claimed under the Code for the taxable year.
 29

Filing Status	Standard Deduction
Married, filing jointly	\$6,000\$12,000
Head of Household	4,4009,600
Single	3,0006,000
Married, filing separately	3,0006,000.

30 (a3) Itemized Deductions Amount. – The itemized deductions amount allowed under this
 31 subsection is the sum of the amount claimed by the taxpayer as a deduction for interest paid or
 32 accrued during the taxable year under section 163(h) of the Code with respect to a qualified
 33 residence and the amount claimed by the taxpayer for charitable contributions made during the
 34 taxable year that are deductible under section 170 of the Code. The itemized deductions amount
 35 allowed under this subsection may not exceed the amount listed in the table below based on the
 36 taxpayer's filing status. In the case of a married couple filing separate returns, a taxpayer may
 37 not deduct the standard deduction amount under subsection (a2) of this section if the taxpayer
 38 or the taxpayer's spouse claims the itemized deductions amount under this subsection.
 39
 40
 41
 42
 43
 44
 45
 46
 47
 48
 49
 50
 51

	Filing Status	Standard <u>Maximum Itemized</u> Deduction
1		
2	Married, filing jointly	\$6,000 <u>\$25,000</u>
3	Head of Household	4,400 <u>20,000</u>
4	Single	3,000 <u>12,500</u>
5	Married, filing separately	3,000 <u>12,500</u>

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

- 10 ...
11 (11) ~~Severance wages received by a taxpayer from an employer as the result of~~
12 ~~the taxpayer's permanent, involuntary termination from employment through~~
13 ~~no fault of the employee. The amount of severance wages deducted as the~~
14 ~~result of the same termination may not exceed thirty five thousand dollars~~
15 ~~(\$35,000) for all taxable years in which the wages are received.~~
- 16 ...
17 (17) ~~In each of the taxpayer's first five taxable years beginning on or after~~
18 ~~January 1, 2005, an amount equal to twenty percent (20%) of the amount~~
19 ~~added to taxable income in a previous year as accelerated depreciation under~~
20 ~~subdivision (c)(8) of this section.~~
- 21 (17a) ~~An amount equal to twenty percent (20%) of the amount added to federal~~
22 ~~taxable income as accelerated depreciation under subdivision (c)(8a) of this~~
23 ~~section. For a taxpayer who made the addition for accelerated depreciation in~~
24 ~~the 2008 taxable year, the deduction allowed by this subdivision applies to~~
25 ~~the first five taxable years beginning on or after January 1, 2009. For a~~
26 ~~taxpayer who made the addition for accelerated depreciation in the 2009~~
27 ~~taxable year, the deduction allowed by this subdivision applies to the first~~
28 ~~five taxable years beginning on or after January 1, 2010.~~
- 29 (17b) ~~An amount equal to twenty percent (20%) of the amount added to federal~~
30 ~~taxable income as accelerated depreciation under subdivision (c)(8b) of this~~
31 ~~section. For the amount added to adjusted gross income in the 2010 taxable~~
32 ~~year, the deduction allowed by this subdivision applies to the first five~~
33 ~~taxable years beginning on or after January 1, 2011. For the amount added to~~
34 ~~taxable income in the 2011 taxable year, the deduction allowed by this~~
35 ~~subdivision applies to the first five taxable years beginning on or after~~
36 ~~January 1, 2012. For the amount added to taxable income in the 2012 taxable~~
37 ~~year, the deduction allowed by this subdivision applies to the first five~~
38 ~~taxable years beginning on or after January 1, 2013. For the amount added to~~
39 ~~adjusted gross income in the 2013 taxable year, the deduction allowed by~~
40 ~~this subdivision applies to the first five taxable years beginning on or after~~
41 ~~January 1, 2014.~~
- 42 ...
43 (21) ~~An amount equal to twenty percent (20%) of the amount added to federal~~
44 ~~taxable income under subdivision (c)(15) of this section. For the amount~~
45 ~~added to taxable income in the 2010 taxable year, the deduction allowed by~~
46 ~~this subdivision applies to the first five taxable years beginning on or after~~
47 ~~January 1, 2011. For the amount added to taxable income in the 2011 taxable~~
48 ~~year, the deduction allowed by this subdivision applies to the first five~~
49 ~~taxable years beginning on or after January 1, 2012.~~
- 50 (21a) ~~An amount equal to twenty percent (20%) of the amount added to adjusted~~
51 ~~gross income under subdivision (c)(15a) of this section. For the amount~~
52 ~~added to adjusted gross income in the 2012 taxable year, the deduction~~

allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to adjusted gross income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.

(22) ~~An amount not to exceed twenty five thousand dollars (\$25,000) of net business income the taxpayer receives during the taxable year. In the case of a married couple filing a joint return where both spouses receive or incur net business income, the maximum dollar amounts apply separately to each spouse's net business income, not to exceed a total of fifty thousand dollars (\$50,000). For purposes of this subdivision, the term "business income" does not include income that is considered passive income under the Code.~~

(23) The amount allowed as a deduction under G.S. 105-134.6A as a result of an add-back for federal accelerated depreciation and expensing.

(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add any of the following items to the extent those items are not included in the taxpayer's adjusted gross income. For a taxpayer who deducts the itemized deductions amount under subsection (a2) of this section, the taxpayer must add any of the following items to the extent those items are included in the itemized deductions amount.

...
 (8) ~~For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:~~

Taxable Year	Percentage
2002	100%
2003	70%
2004	70%
2005	0%

(8a) ~~The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service after December 31, 2007, but before January 1, 2010. The applicable percentage under this subdivision is eighty five percent (85%).~~

~~In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 or 2008 for property placed in service during that year, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must make the adjustments set out below. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

a: ~~A taxpayer must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2007 North Carolina taxable income.~~

b. ~~A taxpayer must add to federal taxable income in the taxpayer's 2009 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2008 North Carolina taxable income.~~

(8b) ~~For taxable years 2010 through 2013, eighty five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

...
(15) ~~For taxable years 2010 and 2011, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~(15a) ~~For taxable years 2012 and 2013, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

(15a) ~~For taxable years 2012 and 2013, eighty five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2012 or 2013 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

(16) The amount required to be added under G.S. 105-134.6A when the State decouples from federal accelerated depreciation and expensing.

..."

SECTION 2.2.(c) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-134.6A. Adjustments when State decouples from federal accelerated depreciation and expensing.

(a) Special Accelerated Depreciation. – A taxpayer who places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation

deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

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

<u>Taxable Year of 85% Add-Back</u>	<u>Five Taxable Years of 20% Deduction</u>
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010. For taxable years before 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 2.2.(d) G.S. 105-151.12 and G.S. 105-151.26 are repealed.

SECTION 2.2.(e) G.S. 105-151.24(a) reads as rewritten:

"(a) Credit. – ~~An individual~~ A taxpayer who is allowed a federal child tax credit under section 24 of the Code for the taxable year ~~and whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed below~~ is allowed a credit against the tax imposed by this Part in an amount equal to one hundred dollars (\$100.00) for each dependent child for whom the ~~individual taxpayer~~ is allowed the federal credit for the taxable year credit. The amount of credit allowed is equal to the amount listed in the table below based on the taxpayer's adjusted gross income.

<u>Filing Status</u>	<u>AGI</u>	<u>Credit Amount</u>
Married, filing jointly		\$100,000
Head of Household		80,000
Single		60,000
Married, filing separately		50,000.
<u>Filing Status</u>	<u>AGI</u>	<u>Credit Amount</u>
Married, filing jointly	Up to \$100,000	\$250.00

1		<u>Over \$100,000</u>	<u>\$125.00</u>
2			
3	<u>Head of Household</u>	<u>Up to \$80,000</u>	<u>\$250.00</u>
4		<u>Over \$80,000</u>	<u>\$125.00</u>
5			
6	<u>Single</u>	<u>Less than \$50,000</u>	<u>\$250.00</u>
7		<u>Over \$50,000</u>	<u>\$125.00</u>
8			
9	<u>Married, filing separately</u>	<u>Less than \$50,000</u>	<u>\$250.00</u>
10		<u>Over \$50,000</u>	<u>\$125.00."</u>

11 SECTION 2.2.(f) This section becomes effective for taxable years beginning on or
 12 after January 1, 2014.

13
 14 **PART III. REDUCE CORPORATE INCOME TAX RATE, REDUCE FRANCHISE**
 15 **TAX RATE, AND PHASE-IN SINGLE SALES FACTOR APPORTIONMENT**

16 SECTION 3.1.(a) G.S. 105-130.3 reads as rewritten:

17 "**§ 105-130.3. Corporations.**

18 A tax is imposed on the State net income of every C Corporation doing business in this
 19 ~~State.~~ State at the rate of six and seventy-five hundredths percent (6.75%). An S Corporation is
 20 not subject to the tax levied in this section. ~~The tax is a percentage of the taxpayer's State net~~
 21 ~~income computed as follows:~~

22	Income Years Beginning—	Tax
23	In 1997—	7.5%
24	In 1998—	7.25%
25	In 1999	7%
26	After 1999	6.9%."

27 SECTION 3.1.(b) G.S. 105-130.34 is repealed.

28 SECTION 3.1.(c) This section becomes effective for taxable years beginning on or
 29 after January 1, 2014.

30 SECTION 3.2.(a) Effective for taxable years beginning on or after January 1,
 31 2014, G.S. 105-130.4(i) reads as rewritten:

32 "(i) All apportionable income of corporations other than public utilities, excluded
 33 corporations, and qualified capital intensive corporations shall be apportioned to this State by
 34 multiplying the income by a fraction, the numerator of which is the property factor plus the
 35 payroll factor plus ~~twice-three times~~ the sales factor, and the denominator of which is ~~four-five~~.
 36 If the sales factor does not exist, the denominator of the fraction is the number of existing
 37 factors and if the sales factor exists but the payroll factor or the property factor does not exist,
 38 the denominator of the fraction is the number of existing factors plus ~~one-two~~."

39 SECTION 3.2.(b) Effective for taxable years beginning on or after January 1,
 40 2015, G.S. 105-130.4(i), as amended by subsection (a) of this section, reads as rewritten:

41 "(i) All apportionable income of corporations other than public utilities, excluded
 42 corporations, and qualified capital intensive corporations shall be apportioned to this State by
 43 multiplying the income by a fraction, the numerator of which is the property factor plus the
 44 payroll factor plus ~~three-four~~ times the sales factor, and the denominator of which is ~~five-six~~. If
 45 the sales factor does not exist, the denominator of the fraction is the number of existing factors
 46 and if the sales factor exists but the payroll factor or the property factor does not exist, the
 47 denominator of the fraction is the number of existing factors plus ~~two-three~~."

48 SECTION 3.2.(c) Effective for taxable years beginning on or after January 1,
 49 2016, G.S. 105-130.4(i), as amended by subsection (b) of this section, reads as rewritten:

50 "(i) All apportionable income of corporations other than public utilities, excluded
 51 corporations, and qualified capital intensive corporations shall be apportioned to this State by

1 multiplying the income by a fraction, the numerator of which is the property factor plus the
2 payroll factor plus ~~four-six~~ times the sales factor, and the denominator of which is ~~six-eight~~. If
3 the sales factor does not exist, the denominator of the fraction is the number of existing factors
4 and if the sales factor exists but the payroll factor or the property factor does not exist, the
5 denominator of the fraction is the number of existing factors plus ~~three-five~~."

6 **SECTION 3.2.(c)** Effective for taxable years beginning on or after January 1,
7 2017, G.S. 105-130.4(i), as amended by subsection (c) of this section, reads as rewritten:

8 "(i) All apportionable income of corporations other than public ~~utilities, excluded~~
9 ~~corporations, and qualified capital intensive corporations~~ utilities shall be apportioned to this
10 State by multiplying the income by a fraction, the numerator of which is the property factor
11 plus the payroll factor plus six times the sales factor, and the denominator of which is eight. the
12 sales factor as determined under subsection (l) of this section. If the sales factor does not exist,
13 the denominator of the fraction is the number of existing factors and if the sales factor exists
14 but the payroll factor or the property factor does not exist, the denominator of the fraction is the
15 number of existing factors plus five."

16 **SECTION 3.2.(d)** Effective for taxable years beginning on or after January 1,
17 2017, G.S. 105-130.4(a)(4), (r), and (s1) are repealed.

18 **SECTION 3.2.(e)** Except as otherwise provided, this section is effective when it
19 becomes law.

20 **SECTION 3.3.(a)** G.S. 105-122(d) reads as rewritten:

21 "(d) After determining the proportion of its total capital stock, surplus and undivided
22 profits as set out in subsection (c) of this section, which amount shall not be less than fifty-five
23 percent (55%) of the appraised value as determined for ad valorem taxation of all the real and
24 tangible personal property in this State of each corporation nor less than its total actual
25 investment in tangible property in this State, every corporation taxed under this section shall
26 annually pay to the Secretary of Revenue, at the time the report and statement are due, a
27 franchise or privilege tax at the rate of ~~one dollar and fifty cents (\$1.50)~~ one dollar and thirty-
28 five cents (\$1.35) per one thousand dollars (\$1,000) of the total amount of capital stock, surplus
29 and undivided profits as provided in this section. The tax imposed in this section shall not be
30 less than thirty-five dollars (\$35.00) and shall be for the privilege of carrying on, doing
31 business, and/or the continuance of articles of incorporation or domestication of each
32 corporation in this State. Appraised value of tangible property including real estate is the ad
33 valorem valuation for the calendar year next preceding the due date of the franchise tax return.
34 The term "total actual investment in tangible property" as used in this section means the total
35 original purchase price or consideration to the reporting taxpayer of its tangible properties,
36 including real estate, in this State plus additions and improvements thereto less reserve for
37 depreciation as permitted for income tax purposes, and also less any indebtedness incurred and
38 existing by virtue of the purchase of any real estate and any permanent improvements made
39 thereon. In computing "total actual investment in tangible personal property" there shall also be
40 deducted reserves for the entire cost of any air-cleaning device or sewage or waste treatment
41 plant, including waste lagoons, and pollution abatement equipment purchased or constructed
42 and installed which reduces the amount of air or water pollution resulting from the emission of
43 air contaminants or the discharge of sewage and industrial wastes or other polluting materials
44 or substances into the outdoor atmosphere or into streams, lakes, or rivers, upon condition that
45 the corporation claiming this deduction shall furnish to the Secretary a certificate from the
46 Department of Environment and Natural Resources or from a local air pollution control
47 program for air-cleaning devices located in an area where the Environmental Management
48 Commission has certified a local air pollution control program pursuant to G.S. 143-215.112
49 certifying that said Department or local air pollution control program has found as a fact that
50 the air-cleaning device, waste treatment plant or pollution abatement equipment purchased or
51 constructed and installed as above described has actually been constructed and installed and

1 that the device, plant or equipment complies with the requirements of the Environmental
 2 Management Commission or local air pollution control program with respect to the devices,
 3 plants or equipment, that the device, plant or equipment is being effectively operated in
 4 accordance with the terms and conditions set forth in the permit, certificate of approval, or
 5 other document of approval issued by the Environmental Management Commission or local air
 6 pollution control program and that the primary purpose is to reduce air or water pollution
 7 resulting from the emission of air contaminants or the discharge of sewage and waste and not
 8 merely incidental to other purposes and functions. The cost of constructing facilities of any
 9 private or public utility built for the purpose of providing sewer service to residential and
 10 outlying areas is treated as deductible for the purposes of this section; the deductible liability
 11 allowed by this section shall apply only with respect to pollution abatement plants or equipment
 12 constructed or installed on or after January 1, 1955."

13 **SECTION 3.3.(b)** This section is effective for taxable years beginning on or after
 14 January 1, 2015, and applies to taxes due in that year or a subsequent year.

15 **SECTION 3.4.(a)** G.S. 105-130.5, as amended by S.L. 2013-10, reads as rewritten:
 16 "**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

17 (a) The following additions to federal taxable income shall be made in determining
 18 State net income:

19 ...
 20 ~~(15) For taxable years 2002-2005, the applicable percentage of the amount~~
 21 ~~allowed as a special accelerated depreciation deduction under section 168(k)~~
 22 ~~or section 1400L of the Code, as set out in the table below. In addition, a~~
 23 ~~taxpayer who was allowed a special accelerated depreciation deduction~~
 24 ~~under section 168(k) or section 1400L of the Code in a taxable year~~
 25 ~~beginning before January 1, 2002, and whose North Carolina taxable income~~
 26 ~~in that earlier year reflected that accelerated depreciation deduction must add~~
 27 ~~to federal taxable income in the taxpayer's first taxable year beginning on or~~
 28 ~~after January 1, 2002, an amount equal to the amount of the deduction~~
 29 ~~allowed in the earlier taxable year. These adjustments do not result in a~~
 30 ~~difference in basis of the affected assets for State and federal income tax~~
 31 ~~purposes. The applicable percentage is as follows:~~

Taxable Year	Percentage
2002	100%
2003	70%
2004	70%
2005	0%

32
 33
 34
 35
 36
 37 ~~(15a) The applicable percentage of the amount allowed as a special accelerated~~
 38 ~~depreciation deduction under section 168(k) or 168(n) of the Code for~~
 39 ~~property placed in service after December 31, 2007, but before January 1,~~
 40 ~~2010. The applicable percentage under this subdivision is eighty five percent~~
 41 ~~(85%).~~

42 ~~In addition, a taxpayer who was allowed a special accelerated~~
 43 ~~depreciation deduction in taxable year 2007 or 2008 for property placed in~~
 44 ~~service during that year, and whose North Carolina taxable income for that~~
 45 ~~year reflected that accelerated depreciation deduction must make the~~
 46 ~~adjustments set out below. These adjustments do not result in a difference in~~
 47 ~~basis of the affected assets for State and federal income tax purposes.~~

48 ~~a. A taxpayer must add to federal taxable income in the taxpayer's 2008~~
 49 ~~taxable year an amount equal to the applicable percentage of the~~
 50 ~~accelerated depreciation deduction reflected in the taxpayer's 2007~~
 51 ~~North Carolina taxable income.~~

- 1 b. ~~A taxpayer must add to federal taxable income in the taxpayer's 2009~~
2 ~~taxable year an amount equal to the applicable percentage of the~~
3 ~~accelerated depreciation deduction reflected in the taxpayer's 2008~~
4 ~~North Carolina taxable income.~~
- 5 (15b) ~~For taxable years 2010 through 2013, eighty five percent (85%) of the~~
6 ~~amount allowed as a special accelerated depreciation deduction under~~
7 ~~section 168(k) or 168(n) of the Code for property placed in service during~~
8 ~~the taxable year. In addition, for taxable year 2010, a taxpayer who placed~~
9 ~~property in service during the 2009 taxable year and whose North Carolina~~
10 ~~taxable income for the 2009 taxable year reflected a special accelerated~~
11 ~~depreciation deduction allowed for the property under section 168(k) of the~~
12 ~~Code must add eighty five percent (85%) of the amount of the special~~
13 ~~accelerated depreciation deduction. These adjustments do not result in a~~
14 ~~difference in basis of the affected assets for State and federal income tax~~
15 ~~purposes.~~
- 16 ...
- 17 (23) ~~For taxable years 2010 and 2011, eighty five percent (85%) of the amount~~
18 ~~by which the taxpayer's expense deduction under section 179 of the Code for~~
19 ~~property placed in service in taxable year 2010 or 2011 exceeds the amount~~
20 ~~that would have been allowed for the respective taxable year under section~~
21 ~~179 of the Code as of May 1, 2010. For purposes of this subdivision, the~~
22 ~~definition of section 179 property has the same meaning as under section~~
23 ~~179 of the Code as of January 1, 2011. These adjustments do not result in a~~
24 ~~difference in basis of the affected assets for State and federal income tax~~
25 ~~purposes.~~
- 26 (23a) ~~For taxable years 2012 and 2013, eighty five percent (85%) of the amount~~
27 ~~by which the taxpayer's expense deduction under section 179 of the Code for~~
28 ~~property placed in service in taxable year 2012 or 2013 exceeds the amount~~
29 ~~that would have been allowed for the respective taxable year under section~~
30 ~~179 of the Code as of May 1, 2010. For purposes of this subdivision, the~~
31 ~~definition of section 179 property has the same meaning as under section~~
32 ~~179 of the Code as of January 2, 2013. These adjustments do not result in a~~
33 ~~difference in basis of the affected assets for State and federal income tax~~
34 ~~purposes.~~
- 35 (24) The amount required to be added under G.S. 105-130.5B when the State
36 decouples from federal accelerated depreciation and expensing.
- 37 (b) The following deductions from federal taxable income shall be made in determining
38 State net income:
- 39 ...
- 40 (21) ~~In each of the taxpayer's first five taxable years beginning on or after~~
41 ~~January 1, 2005, an amount equal to twenty percent (20%) of the amount~~
42 ~~added to taxable income in a previous year as accelerated depreciation under~~
43 ~~subdivision (a)(15) of this section.~~
- 44 (21a) ~~An amount equal to twenty percent (20%) of the amount added to federal~~
45 ~~taxable income as accelerated depreciation under subdivision (a)(15a) of this~~
46 ~~section. For a taxpayer who made the addition for accelerated depreciation in~~
47 ~~the 2008 taxable year, the deduction allowed by this subdivision applies to~~
48 ~~the first five taxable years beginning on or after January 1, 2009. For a~~
49 ~~taxpayer who made the addition for accelerated depreciation in the 2009~~
50 ~~taxable year, the deduction allowed by this subdivision applies to the first~~
51 ~~five taxable years beginning on or after January 1, 2010.~~

(21b) ~~An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

...
 (26) ~~An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012.~~

(26a) ~~An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (a)(23a) of this section. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013. For the amount added to taxable income in the 2013 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2014.~~

(27) The amount allowed as a deduction under G.S. 105-130.5B as a result of an add-back for federal accelerated depreciation and expensing.

...".

SECTION 3.4.(b) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

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

(a) Special Accelerated Depreciation. – A taxpayer who places property in service during a taxable year listed in the table below and who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount taken for that year under those Code provisions.

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

<u>Taxable Year of 85% Add-Back</u>	<u>Five Taxable Years of 20% Deduction</u>
<u>2010</u>	<u>2011 through 2015</u>
<u>2011</u>	<u>2012 through 2016</u>
<u>2012</u>	<u>2013 through 2017</u>
<u>2013</u>	<u>2014 through 2018</u>

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section

168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A taxpayer who places section 179 property in service during a taxable year in subsection (a) of this section must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the amount that would have been allowed for that taxable year under section 179 of the Code as of May 1, 2010.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income. The table in subsection (a) of this section indicates the applicable five-year period.

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.4.(c) This section is effective when it becomes law.

SECTION 3.5.(a) G.S. 115C-546.1 reads as rewritten:

"§ 115C-546.1. **Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

Period	Fraction
10/1/97 to 9/30/98	One fifteenth (1/15)
10/1/98 to 9/30/99	Two twenty ninths (2/29)
10/1/99 to 9/30/00	One fourteenth (1/14)
After 9/30/00	Five sixty ninths (5/69)

(c) The Fund shall be administered by the Department of Public Instruction."

SECTION 3.5.(b) G.S. 115C-546.2(a) is repealed.

SECTION 3.5.(c) This section becomes effective April 1, 2014, and applies to distributions for collections for quarters beginning on or after that date.

PART IV. SALES TAX CHANGES

SECTION 4.1.(a) G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), and (e) are repealed.

SECTION 4.1.(b) G.S. 105-164.4(1f) and (4a) are repealed.

SECTION 4.1.(c) G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

SECTION 4.1.(d) Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must lower the rate set for the following utilities:

(1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-114.4 and for the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.

(2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under

1 G.S. 105-122(d1), and the resulting liability of companies for the tax
2 imposed on sales of piped natural gas under G.S. 105-164.4.

3 **SECTION 4.1.(e)** G.S. 160A-211 reads as rewritten:

4 "(c) Prohibition. – A city may not impose a license, franchise, or privilege tax on a
5 person engaged in any of the businesses listed in this subsection. These businesses are subject
6 to a State tax for which the city receives a share of the tax ~~revenue~~revenue or they are subject
7 to the local sales tax.

8 (1) ~~Supplying piped natural gas taxed under Article 5E of Chapter 105 of the~~
9 ~~General Statutes~~gas.

10 (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

11 (3) Providing video programming taxed under G.S. 105-164.4(a)(6).

12 (4) Providing electricity. A city may continue to impose and collect the license,
13 franchise, or privilege taxes on an electric power company that it imposed
14 and collected on or before January 1, 1947, but it may not impose or collect
15 any greater franchise, privilege, or license taxes, in the aggregate, on an
16 electric power company that was imposed and collected on or before January
17 1, 1947."

18 **SECTION 4.1.(f)** This section becomes effective July 1, 2014. Subsection (a) of
19 this section applies to taxes due in the 2014 tax year or a subsequent year. Subsection (b) of this
20 section applies to piped natural gas received on or after July 1, 2014, pursuant to a sale made on
21 or before that date. The remainder of this section is effective when it becomes law.

22 **SECTION 4.2.(a)** G.S. 105-37.1, 105-38.1, and 105-40 are repealed.

23 **SECTION 4.2.(b)** G.S. 105-164.4(a) is amended by adding the following new
24 subdivisions to read:

25 "**§ 105-164.4. Tax imposed on retailers.**

26 (a) A privilege tax is imposed on a retailer at the following percentage rates of the
27 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and
28 three-quarters percent (4.75%).

29 ...
30 (9) The general rate of tax applies to admission charges to an entertainment
31 activity listed in this subdivision. Offering any of these listed activities is a
32 service. An admission charge includes a charge for a single ticket, a
33 multioccasion ticket, a seasonal pass, an annual pass, a cover charge, and a
34 charge for amenities. When an admission ticket is resold and the price of the
35 admission ticket is printed on the face of the ticket, the tax does not apply to
36 the face price. When an admission ticket is resold and the price of the
37 admission ticket is not printed on the face of the ticket, the tax applies to the
38 difference between the amount the reseller paid for the ticket and the amount
39 the reseller charges for the ticket. Admission charges to the following
40 entertainment activities are subject to tax:

41 a. A live performance or other live event of any kind.

42 b. A movie or other audiovisual work.

43 c. A museum, a cultural site, a garden, an exhibit, a show, or a similar
44 attraction or a guided tour at any of these attractions."

45 **SECTION 4.2.(c)** G.S. 105-164.13(13c) and G.S. 105-164.13D are repealed.

46 **SECTION 4.2.(d)** G.S. 105-164.13 is amended by adding the following new
47 subdivisions to read:

48 "(60) Admission charges to any of the following recreational or entertainment
49 activities:

50 a. All exhibitions, performances, and entertainments, except as in this
51 Article expressly mentioned as not exempt, produced by local talent

- 1 exclusively for the benefit of religious, charitable, benevolent, or
2 educational purposes, as long as no compensation is paid to the local
3 talent.
- 4 b. The North Carolina Symphony Society, Incorporated, as specified in
5 G.S. 140-10.1.
- 6 c. All exhibits, shows, attractions, and amusements operated by a
7 society or association organized under the provisions of Chapter 106
8 of the General Statutes where the society or association has obtained
9 a permit from the Secretary to operate without the payment of taxes
10 under this Article.
- 11 d. All outdoor historical dramas, as specified in Article 19C of Chapter
12 143 of the General Statutes.
- 13 e. All elementary and secondary school athletic contests, dances, and
14 other amusements.
- 15 f. The first one thousand dollars (\$1,000) of gross receipts derived from
16 dances and other amusements actually promoted and managed by
17 civic organizations when the entire proceeds of the dances or other
18 amusements are used exclusively for civic and charitable purposes of
19 the organizations and not to defray the expenses of the organization
20 conducting the dance or amusement. The mere sponsorship of a
21 dance or another amusement by a civic or fraternal organization does
22 not exempt the dance or other amusement, because the exemption
23 applies only when the dance or amusement is actually managed and
24 conducted by the civic or fraternal organization.
- 25 g. A youth athletic contest with an admissions price that does not
26 exceed ten dollars (\$10.00) sponsored by a person exempt from
27 income tax under Article 4 of this Chapter. For the purpose of this
28 subdivision, a youth athletic contest means a contest in which each
29 participating athlete is less than 20 years of age.
- 30 h. All dances, motion picture shows, and other amusements promoted
31 and managed by a qualifying corporation that operates a center for
32 the performing and visual arts if the dance or other amusement is
33 held at the center. "Qualifying corporation" means a corporation that
34 is exempt from income tax under G.S. 105-130.11(a)(3). "Center for
35 the performing and visual arts" means a facility having a fixed
36 location that provides space for dramatic performances, studios,
37 classrooms, and similar accommodations to organized arts groups
38 and individual artists. This exemption does not apply to athletic
39 events.
- 40 i. All exhibitions, performances, and entertainments promoted and
41 managed by a "nonprofit arts organization." This exemption does not
42 apply to athletic events. A "nonprofit arts organization" is an
43 organization that meets both of the following requirements:
- 44 1. It is exempt from income tax under G.S. 105-130.11(a)(3).
45 2. Its primary purpose is to create, produce, present, or support
46 music, dance, theatre, literature, or visual arts.
- 47 j. A person that is exempt from income tax under Article 4 of this
48 Chapter and is engaged in the business of operating a teen center. A
49 "teen center" is a fixed facility whose primary purpose is to provide
50 recreational activities, dramatic performances, dances, and other
51 amusements exclusively for teenagers.

- 1 k. Arts festivals held by a person that is exempt from income tax under
2 Article 4 of this Chapter and that meets the following conditions:
3 1. The person holds no more than two arts festivals during a
4 calendar year.
5 2. Each of the person's arts festivals last no more than seven
6 consecutive days.
7 3. The arts festivals are held outdoors on public property and
8 involve a variety of exhibitions, entertainments, and
9 activities.
10 l. Community festivals held by a person who is exempt from income
11 tax under Article 4 of this Chapter and that meets all of the following
12 conditions:
13 1. The person holds no more than one community festival
14 during a calendar year.
15 2. The community festival lasts no more than seven consecutive
16 days.
17 3. The community festival involves a variety of exhibitions,
18 entertainments, and activities, the majority of which are held
19 outdoors and are open to the public.
20 m. All farm-related exhibitions, shows, attractions, or amusements
21 offered on land used for bona fide farm purposes as defined in
22 G.S. 153A-340."

23 **SECTION 4.2.(e)** G.S. 105-467(b) reads as rewritten:

24 "(b) Exemptions and Refunds. – The State exemptions and exclusions contained in
25 G.S. 105-164.13, the State sales and use tax ~~holidays~~ holiday contained in G.S. 105-164.13C
26 ~~and G.S. 105-164.13D~~, and the State refund provisions contained in G.S. 105-164.14 through
27 G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed
28 under this Article. Except as provided in this subsection, a taxing county may not allow an
29 exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local
30 school administrative unit and a joint agency created by interlocal agreement among local
31 school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related
32 materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use
33 taxes paid by it under this Article on direct purchases of tangible personal property and
34 services, other than electricity, telecommunications service, and ancillary service. Sales and use
35 tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and
36 equipment that become a part of or annexed to any building or structure that is owned or leased
37 by the entity and is being erected, altered, or repaired for use by the entity is considered a sales
38 or use tax liability incurred on direct purchases by the entity for the purpose of this subsection.
39 A request for a refund shall be in writing and shall include any information and documentation
40 required by the Secretary. A request for a refund is due within six months after the end of the
41 entity's fiscal year. Refunds applied for more than three years after the due date are barred."

42 **SECTION 4.2.(f)** This section becomes effective October 1, 2013, and applies to
43 sales made on or after that date and to gross receipts received on or after October 1, 2013, from
44 admissions purchased on or after that date. Gross receipts received on or after October 1, 2013,
45 from admissions purchased before that date are taxable under G.S. 105-37.1 or G.S. 105-38.1,
46 as appropriate.

47 **SECTION 4.3.(a)** G.S. 105-164.3 is amended by adding a new subdivision to read:

48 "**§ 105-164.3. Definitions.**

49 The following definitions apply in this Article:

50 ...

- 1 (1c) Alteration, repair, maintenance, cleaning, and installation services. – The
2 term includes the activities listed in this subdivision:
3 a. Altering tangible personal property by tailoring, monogramming,
4 engraving, or making similar changes to the property.
5 b. Repairing tangible personal property to restore it to proper working
6 order.
7 c. Maintaining tangible personal property to keep the property in
8 working order, to avoid breakdown, or to prevent unnecessary
9 repairs.
10 d. Cleaning tangible personal property.

11 ...

- 12 (38b) Service contract. – A warranty agreement, a maintenance agreement, a repair
13 contract, or a similar agreement or contract by which the seller agrees to
14 maintain or repair tangible personal property.

15 "

16 **SECTION 4.3.(b)** G.S. 105-164.4(a), as amended by Section 3.1 of this act, reads
17 as rewritten:

18 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the
19 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and
20 three-quarters percent (4.75%).

21 ...

- 22 (10) The general rate of tax applies to the following services on tangible personal
23 property:

- 24 a. Alteration, repair, maintenance, cleaning, and installation services.
25 b. Service contracts."

26 **SECTION 4.3.(c)** G.S. 105-164.13(49) is repealed.

27 **SECTION 4.3.(d)** G.S. 105-164.13 is amended by adding a new subdivision to
28 read:

- 29 "(61) Any of the following provided for tangible personal property that is exempt
30 from tax under this Article, other than an item exempt from tax under
31 G.S. 105-164.13(32):

- 32 a. A service contract.
33 b. Alteration, repair, maintenance, cleaning, or installation services."

34 **SECTION 4.3.(e)** G.S. 105-237.1(a) reads as rewritten:

35 "(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is
36 collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the
37 best interest of the State and makes one or more of the following findings:

38 ...

- 39 (6) The taxpayer is a retailer or a consumer under Article 5 of this Chapter, the
40 assessment is for sales or use tax the retailer failed to collect or the consumer
41 failed to pay on an item that first became taxable under that Article on or
42 after July 1, 2014, and the retailer or consumer made a good faith effort to
43 comply with the sales and use tax laws. This subdivision expires on July 1,
44 2016."

45 **SECTION 4.3.(f)** This section becomes effective July 1, 2014, and applies to sales
46 made on or after that date.

47 **SECTION 4.4.(a)** Article 40 of Chapter 105 is amended by adding a new section
48 to read:

49 "§ 105-483A. Reduction in tax rate.

50 The tax rate authorized under this Article for all items other than food taxable under
51 G.S. 105-467(a)(5) is four-tenths percent (0.4%) for sales occurring on or after July 1, 2014.

1 The tax rate on food taxable under G.S. 105-467(a)(5) is five-tenths percent (0.5%). A
2 resolution enacted by a county under this Article before July 1, 2014, to levy five-tenths
3 percent (0.5%) local sales and use tax is considered to be a resolution authorizing the levy of
4 four-tenths percent (0.4%) local sales and use tax under this Article. If the board of elections of
5 a county holds a special election for the purpose of submitting to the voters of the county the
6 question of whether the levy of the local sales and use tax authorized under this Article should
7 be repealed, the board of elections must modify the form of the ballot question in accordance
8 with the changes made by this section."

9 **SECTION 4.4.(b)** This section becomes effective July 1, 2014, and applies to sales
10 made on or after that date.

11 **SECTION 4.5.(a)** G.S. 105-469 reads as rewritten:

12 "**§ 105-469. Secretary to collect and administer local sales and use tax.**

13 (a) Collection and Administration. – The Secretary ~~shall~~must collect and administer a
14 tax levied by a county pursuant to this Article. Except as provided in this section, the net tax
15 proceeds must be allocated and distributed as provided in G.S. 105-472.

16 (a1) Food. – As directed by G.S. 105-164.13B, taxes levied by a county on food are
17 administered as if they were levied by the State under Article 5 of this Chapter. The Secretary
18 must, on a monthly basis, distribute local taxes levied on food to the taxing counties as follows:

19 (1) The Secretary must allocate one-half of the net proceeds on a per capita
20 basis according to the most recent annual population estimates certified to
21 the Secretary by the State Budget Officer. The Secretary must then adjust the
22 amount allocated to each county as provided in G.S. 105-486(b). The
23 Secretary must include one-half of the amount allocated under this
24 subdivision in the distribution made under Article 40 of this Chapter and
25 must include the remaining one-half in the distribution made under Article
26 42 of this Chapter.

27 (2) The Secretary must allocate the remaining net proceeds proportionately to
28 each taxing county based upon the amount of sales tax on food collected in
29 the taxing county in the 1997-1998 fiscal year under Article 39 of this
30 Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total
31 amount of sales tax on food collected in all taxing counties in the 1997-1998
32 fiscal year under Article 39 of this Chapter and under Chapter 1096 of the
33 1967 Session Laws. The Secretary must include the amount allocated under
34 this subdivision in the distribution made under Article 39 of this Chapter.

35 (a2) Electricity and Piped Natural Gas. – The Secretary must, on a monthly basis,
36 allocate to each taxing county for which the Secretary collects the tax the net proceeds of the
37 tax collected in that county on electricity and piped natural gas. The Secretary must divide one
38 hundred percent (100%) of the amount allocated to each taxing county among the
39 municipalities in that county on a per capita basis, as determined under G.S. 105-472(b)(1). The
40 term "net proceeds" has the same meaning as defined in G.S. 105-472.

41 (b) The Secretary shall require retailers who collect use tax on sales to North Carolina
42 residents to ascertain the county of residence of each buyer and provide that information to the
43 Secretary along with any other information necessary for the Secretary to allocate the use tax
44 proceeds to the correct taxing county."

45 **SECTION 4.5.(b)** G.S. 105-486 is amended by adding a new subsection to read:

46 "(e) Electricity and Piped Natural Gas. – The Secretary must allocate and distribute the
47 net proceeds of the tax collected on electricity and piped natural gas in accordance with
48 G.S. 105-469(a2)."

49 **SECTION 4.5.(c)** G.S. 105-501 is amended by adding a new subsection to read:

1 "(c) Electricity and Piped Natural Gas. – The Secretary must allocate and distribute the
2 net proceeds of the tax collected on electricity and piped natural gas in accordance with
3 G.S. 105-469(a2)."

4 **SECTION 4.5.(d)** This section becomes effective July 1, 2014, and applies to
5 distributions for collections for quarters beginning on or after that date.

6
7 **PART V. EFFECTIVE DATE**

8 **SECTION 5.(a)** This act does not affect the rights or liabilities of the State, a
9 taxpayer, or another person arising under a statute amended or repealed by this act before the
10 effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a
11 tax that accrued under the amended or repealed statute before the effective date of its
12 amendment or repeal.

13 **SECTION 5.(b)** Except as otherwise provided, this act is effective when it
14 becomes law.

DRAFT