

June 10, 2002

**S 1292. REVENUE LAW CHANGES 1. TO AMEND THE STATE AND LOCAL REVENUE LAWS.**

Blank bill.

**Intro. by Kerr, Hoyle.**

Ref. to Finance	GS 105
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June 11, 2002

**S 1292. REVENUE LAW CHANGES 1.** Intro. 6/10/02. Senate committee substitute makes the following changes to 1st edition. Changes title to *AN ACT TO RAISE REVENUE TO SUPPORT THE CURRENT OPERATIONS OF STATE AND LOCAL GOVERNMENT AND TO UPDATE THE REFERENCE DATE TO THE INTERNAL REVENUE CODE TO DEFINE AND DETERMINE CERTAIN STATE TAX PROVISIONS*. Replaces blank bill.

*Local option sales tax.* Amends GS 105-517(c) to authorize counties to accelerate additional ½ cent local option sales tax earliest effective date from July 1, 2003, to August 1, 2002. Amends GS 105-520, effective July 1, 2002, to provide for quarterly, not monthly, allocations of proceeds until July 1, 2003, when monthly distributions resume. Provides that state retains its ½ cent of proceeds until July 1, 2003. Amends GS 105-521 to provide hold harmless distribution for counties whose projected sales tax revenue for respective fiscal year is less than its reimbursement amount; county receives reimbursement of 100% of difference. County whose projected sales tax revenue for additional ½ cent is equal to or greater than its current reimbursement has no hold harmless distribution. Amends GS 105-269.14(b) for taxable years beginning on or after Jan. 1, 2002, by setting new tax distribution formula. Amends GS 159-15 to permit a local government to amend its budget ordinance before Jan. 1, if after July 1 the government receives additional and unanticipated revenues, to reduce property tax levy. Amends Sec. 34.15 of SL 2001-424 to repeal reimbursements to local governments, effective July 1, 2002. Reimbursements repealed include amounts distributed to a local government to compensate for revenue lost as a result of the state's repeal of the property tax on inventories, poultry, and livestock; intangibles tax; homestead exclusion from property tax; local sale and use taxes on food purchased with food stamps.

*Delay 2001 tax breaks.* Amends SL 2001-424 and -476 and GS 105-151.24 to delay effective date of "sales tax holiday" from August 2002 to August 2003, delay phase-in of increase in the standard deduction until 2003 and 2004 tax years, and delay phase-in of child care tax credit until the 2003 and 2004 tax years.

*Update Internal Revenue Code References.* Amends numerous sections of GS Ch. 105 to bring NC statutes in conformity with federal tax law changes. Amends pension tax provisions to allow taxpayers to contribute more to tax-deferred retirement accounts, increase amounts taxpayers can contribute to IRAs and allows taxpayers over 50 to make "catch-up" contributions, and expands types of eligible tax-free rollover distributions to include distributions from various plans. Amends education tax provisions to increase annual maximum contribution to education IRAs from \$500 to \$2,000; allows education IRAs to be used for grade, middle, and high school expenses; provides that distributions from 529 higher education-savings plans are income-tax free in the amount that is used to pay qualified higher education expenses. Amends estate tax provisions to conform exemption limits to the federal exemption limits to ensure that estates in NC do not have to pay state tax if there is no federal tax due. Does not conform to phase-out of state death tax credit for two years. Federal law phases out credit over next four years; under S 1165, a decedent dying on or after 1/1/02 and before 1/1/04 would owe NC estate tax to the same extent that it would be owed without regard to the phase-out of the credit. Provision sunsets Jan. 1, 2004. Amends depreciation provisions, but provisions do not conform to federal acceleration provisions. Federal law allows a 30% accelerated depreciation allowance for certain assets placed in service after 9/11/01 and before 9/11/04. S 1165 provides that taxpayer must add-back 100% of accelerated depreciation in the year accelerated depreciation is claimed and then, in tax years beginning after 1/1/05, taxpayer may deduct amount of the add-back in five equal installments.

*Unauthorized substance tax expenses.* Amends GS 105-501 to allocate to local governments 70% of the state's expenses in collecting the unauthorized substance tax; allocation would come from local sales tax revenues, not from the unauthorized substance tax proceeds.

*Insurance regulatory charge.* Sets the insurance regulatory charge under GS 58-6-25 at 6.5%, the same rate as last year.

*Regulatory fee for Utilities Commission.* Sets regulatory fee for Utilities Comm'n under GS 62-302(b)(2) at 0.1% and sets electric membership corporation regulatory fee under GS 62-301(b1) at \$200,000, the same fee as last year.

*Various court fees.* Increases several fees effective Oct. 1, 2002, increase applies to fees assessed or collected on or after that date. Amends GS 15A-1371(i) to increase the fee from \$100 to \$150 for persons participating in Community Service Parole Program and for persons serving a community service sentence. Amends GS 15A-1343(c1) to increase fee from \$20 to \$30 per month for any person placed on supervised probation. Adds new GS 7A-38.7 to set a dispute resolution fee of \$75 for criminal cases resolved through referral to a community mediation center. Amends GS 20-135.2A(e) to allow assessment of court costs for failure to wear a seatbelt and for failure to wear a motorcycle helmet. Amends GS 7A-304(a)(4) to increase costs assessed from \$65 to \$75 for cases in district court and from \$72 to \$82 for cases in superior court. Amends GS 15A-145 and 15A-146 and GS 90-96 to impose fee of \$65 for petition to expunge a criminal record.

Except as indicated, effective when act becomes law. Provides that no addition to tax may be made under GS 105-163.15 or 105-163.14 for a taxable year beginning on or after Jan. 1, 2002, and before Jan. 1, 2003, with respect to an underpayment or corporate or individual income tax to the extent the underpayment was affected by the act.

June 12, 2002

**S 1292. REVENUE LAW CHANGES 1.** Intro. 6/10/02. Senate amendments make the following changes to 2nd edition. (1) Delete provisions delaying effective date of sales tax holiday from August 2002 to August 2003. (2) Add amendment to GS 103A-5 to authorize Sec'y of Dep't of Health and Human Services to establish a fee to cover the cost of analyzing Pap smear specimens sent to the State Laboratory by local health departments and state-owned facilities and for reporting results of the analysis. Fee is in addition of charge for the Pap smear test kit. (3) Change title to *ACT TO RAISE REVENUES TO SUPPORT THE CURRENT OPERATIONS OF STATE AND LOCAL GOVERNMENT, TO UPDATE THE REFERENCE DATE TO THE INTERNAL REVENUE CODE USED TO DEFINE AND DETERMINE CERTAIN STATE TAX PROVISIONS, AND TO PROVIDE THAT LOCAL REVENUES MAY NOT BE WITHHELD OR IMPOUNDED BY THE GOVERNOR.* (4) Repeal GS 105-521(transition local government hold harmless) effective July 2, 2012. (5) Add new provisions prohibiting Governor from reducing or withholding distribution of revenue distributed to local governments under GS 105-113.82(d), GS 105-116.1, GS 105-187.44(b), GS 105-164.44F, and GS 136-41.1. Add amendment to GS 143-25 to provide that Governor may not withhold from distribution funds collected by the state on behalf of local governments and funds that General Assembly has appropriated or otherwise committed to local governments unless, after making adequate provision for prompt payment of principal or and interest on bonds and notes of the state, Governor has exhausted all other sources of revenue including surplus remaining in the treasury at the beginning of the fiscal period. Governor may not withhold revenues from taxes levied by units of local government and collected by the state.

July 17, 2002

**S 1292. BUDGET REVENUE ACT OF 2002.** Intro. 6/10/02. House committee substitute makes the following changes to 3rd edition. Changes title to read *AN ACT TO DELAY THE INCREASE IN THE CHILD TAX CREDIT BY ONE YEAR; TO DELAY THE INCREASE IN THE STANDARD DEDUCTION FOR MARRIED PERSONS BY ONE YEAR; TO UPDATE THE REFERENCE DATE TO THE INTERNAL REVENUE CODE USED TO DEFINE AND DETERMINE CERTAIN STATE TAX PROVISIONS; TO CONFORM TO THE FEDERAL ANNUAL EXCLUSION AMOUNT FOR GIFT TAXES; TO DELAY THE EFFECT OF ACCELERATED DEPRECIATION UNDER SECTION 168 OF THE CODE AND SECTION 1400L OF THE CODE; TO DISREGARD THE PHASE-OUT OF THE STATE DEATH TAX CREDIT UNDER THE CODE; TO ALLOW THE SECRETARY OF REVENUE TO RECOUP A PORTION OF THE COSTS OF ADMINISTERING THE UNAUTHORIZED SUBSTANCES TAX FROM LOCAL SALES AND USE TAX*

*DISTRIBUTIONS; TO SET THE INSURANCE REGULATORY FEE AND THE PUBLIC UTILITY REGULATORY FEES; TO PROVIDE THAT LOCAL REVENUES MAY NOT BE WITHHELD OR IMPOUNDED BY THE GOVERNOR; TO CONFORM THE DEFINITION OF BUSINESS INCOME TO FEDERAL STANDARDS; TO PROVIDE THAT IN APPORTIONING CORPORATE INCOME TO THIS STATE FOR INCOME TAX PURPOSES, SALES IN ANOTHER STATE OR COUNTRY WHERE THEY ARE NOT TAXABLE ARE NOT CONSIDERED; TO CLOSE A LOOPHOLE IN THE 2001 LEGISLATION INTENDED TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO AVOID FRANCHISE TAX LIABILITY BY TRANSFERRING ASSETS TO A LIMITED LIABILITY COMPANY; AND TO ENLARGE THE CLASS OF TAXPAYERS ELIGIBLE FOR AN ENHANCED CREDIT FOR INVESTING IN LOW-INCOME HOUSING IN A COUNTY THAT SUSTAINED SEVERE OR MODERATE DAMAGE FROM A HURRICANE IN 1999. As title indicates.*

July 25, 2002

**S 1292. BUDGET REVENUE ACT OF 2002.** Intro. 6/10/02. House committee substitute adopted 7/24/02 makes the following changes to 4th edition. Adds following language to title of bill: *TO ACCELERATE THE ADDITIONAL LOCAL OPTION SALES TAX, THE REPEAL OF REIMBURSEMENTS, AND THE DECREASE IN THE STATE SALES TAX RATE; TO PROVIDE NO HOLD HARMLESS PAYMENTS IN THE 2002-2003 FISCAL YEAR OTHER THAN A PAYMENT EQUAL TO THE EXCESS, IF ANY, OF A LOCAL GOVERNMENT'S REPEALED REIMBURSEMENT AMOUNT OVER THREE TIMES ITS ESTIMATED PROCEEDS FROM THE NEW TAX.*

*Local sales tax and reimbursements.* Permits counties to levy an additional one-half percent local sales tax effective January 1, 2003 (current law permits tax to be levied effective July 1, 2003); and repeals existing state sales tax of one-half percent on same date (currently, to be repealed July 1, 2003). Makes the monthly distribution of sales tax proceeds to local governments effective Oct. 1, 2002 (currently July 1, 2003). Repeals local government reimbursements effective July 1, 2002 (currently, July 1, 2003). Provides for a limited hold-harmless payment to local governments for loss of revenues caused by trade of local sales tax for reimbursements, as follows: Sec'y of Revenue to determine amount each local government would receive in proceeds from additional one-half percent sales tax for 2002-03 if all counties levied the tax effective Jan. 1, 2003, and then compare that amount to each local government's repealed reimbursement amount; local government is entitled to payment only for amount by which repealed reimbursement amount is more than three times amount of estimated sales tax proceeds. Repeals entire hold-harmless program effective July 1, 2012.

*Budget ordinance amendments.* Amends GS 159-15 to permit a local government to amend its budget ordinance before January 1 of budget year and reduce property tax levy, in order to account for additional and unanticipated revenues received by the local government after July 1.

*Other changes.* Changes proposed GS 105-130.5(a)(15), delaying effect of accelerated depreciation, to require adding to federal taxable income, in determining state income, the following percentages of accelerated depreciation claimed in federal returns: 100% for 2002 taxable year, 70% for 2003 taxable year, and 0% thereafter. (Latest version would require adding 100% for 2002 and 2003 and 80% thereafter.) Changes proposed amendment of GS 105-130.4(l) to delete changes in definition of sales factor (paragraph [1]) and adding to paragraph (2) (situation of sales of tangible personal property) statements that (1) sales of tangible personal property are excluded from denominator if they are sales to US government or sales in a state in which taxpayer not taxable; and (2) sales of tangible personal property are in NC if property received in NC by purchaser only as long as purchaser not US government.

September 23, 2002

**S 1292. LOCAL SALES TAX ACCELERATION (NEW).** Intro. 6/10/02. Conference report recommends the following changes to 5th edition to reconcile matters in controversy. Completely rewrites bill to (1) provide that new tax may become effective on or after December 1, 2002; (2) rewrites ballot question to provide that additional ½ cent local tax is in addition to all current state and local sales and use taxes; (3) provides that if a county levies the additional ½ cent tax to become effective on or before January 1, 2003, the county is required to give the Sec'y of

Revenue only 30 days' notice of the levy, and for taxes to become effective after January 1, 2003, the provisions of GS 105-466(c) apply; (4) authorizes Dep't of Revenue, to the extent its nonrecurring costs of administering the tax exceed funds available in its 2002-2003 budget, to pay excess cost by withholding up to \$275,000 from collections of local sales and use taxes; (5) provides that a retailer is not liable for the additional ½ cent tax levied effective 12/1/02 that it fails to collect due to an inadvertent error during December, 2002, if the retailer can demonstrate the reason for the error to the Sec'y; (6) makes a number of clarifying and conforming changes; (7) provides that a county may levy the new tax by resolution that becomes effective on or before 1/1/03, by giving at least 48 hours notice of its intent to adopt the resolution, as provided under GS 143-318.12(b)(2).

September 26, 2002

**SL 2002-123 (S 1292). LOCAL SALES TAX ACCELERATION. AN ACT TO ACCELERATE THE ADDITIONAL ONE-HALF CENT LOCAL OPTION SALES AND USE TAX AND TO MAKE CONFORMING AND TECHNICAL CHANGES.** Summarized in *Daily Bulletin* 6/11/02, 6/12/02, 7/17/02, 7/25/02, and 9/23/02. Enacted September 26, 2002. Effective September 26, 2002, except as otherwise provided.