

February 8, 2005

H 105. MOTOR FUEL TAX CHANGES. TO MODIFY THE TAXATION OF MOTOR FUELS.

Makes several changes to the motor fuel laws as follows. (1) Amends GS 105-236(2), effective Jan. 1, 2006, to authorize Sec'y of Revenue to impose a penalty of \$1,000 for a person's failure to obtain certain motor and alternative fuel business licenses as required by GS 105-449.65 and 105-449.131. (2) Amends GS 105-449.46 and GS 20-91 to transfer audits related to the International Registration Plan from the Dep't of Transportation, Div'n of Motor Vehicles, to the Dep't of Revenue, Motor Fuels Tax Div'n. (3) Enacts new GS 105-449.47A, effective Jan. 1, 2006, to authorize Sec'y to deny a motor carrier an identification marker if carrier has: had a registration cancelled for cause; has been convicted of fraud, misrepresentation, or any other offense that indicates that applicant may not comply with motor carrier fuel tax requirements; or failed to pay a state tax or file a return. (4) Effective Jan. 1, 2006, amends GS 105-449.51 to impose \$200 fine (was, at least \$10 and up to \$200) for operation of a motor vehicle without required registration and identification markers. (5) Amends GS 105-449.65(b) to provide that a person licensed as an occasional or tank wagon importer is required to obtain a distributor license if the importer is also purchasing motor fuel, at the terminal rack, from an elective or permissive supplier who is authorized to collect and remit tax to the state, effective Jan. 1, 2006. (6) Deletes GS 105-449.86(a)(4), which imposed motor fuel excise tax on American Red Cross. (7) Amends GS 105-449.90A to delete option of paying tax to NC rather than destination state when the person exporting fuel is not registered in the destination state. (8) Enacts new GS 105-449.96(7) to require that fuel supplier list on state tax return the number of gallons of motor fuel exchanged with another licensed supplier pursuant to a two-party exchange agreement. (9) Amends GS 105-449.15(d)(1), effective Jan. 1, 2006, to require a person operating an empty fuel transport to carry the shipping document for the motor fuel last contained in the conveyance. (10) Enacts new GS 105-449.115(g) authorizing Sec'y of Revenue to assess a civil penalty of \$5,000 against a terminal operator that issues a shipping document that does not contain all the required information. (11) Amends GS 105-449.115A(a) to extend shipping document requirements to a person who operates a tank wagon into which motor fuel is loaded at the terminal. (12) Effective Jan. 1, 2006, amends GS 105-449.123(a) to impose a civil penalty on a person who fails to mark a storage facility for dyed (untaxed) motor fuel. Amends GS 119-15 to define "dyed diesel fuel" and "dyed diesel fuel distributor." (13) Enacts new GS 119-15.1(a)(4) to require licensing of dyed diesel fuel distributor. (14) Makes technical and conforming changes.

Intro. by Luebke.

Ref. to Finance

GS 20, 105, 119

May 4, 2005

H 105. MOTOR FUEL TAX CHANGES. Intro. 2/8/2005. House committee substitute makes the following changes to 1st edition. (1) Enacts a new GS 105-241(b)(2a) to provide that taxpayers who are required to file motor fuels tax returns electronically must also pay the tax by electronic funds transfer. (2) Modifies proposed new GS 105-449.47A (reasons to deny motor carrier registration) and amends GS 105-449.73 (reason to deny motor fuels tax license) to remove different treatment of individuals and entities. (3) Makes a conforming change to GS 105-449.86(a)(2) to remove reference to former federal exemption for intercity buses. (4) Removes proposed amendment to GS 105-449.115(d) that would have required a person operating an empty fuel transport to carry the shipping document for the motor fuel last contained in the transport. (5) Modifies proposed new GS 105-449.115(g) (civil penalty for issuing noncompliant shipping document) and proposed amendment to GS 105-449.123(a) (civil penalty for failure to mark a storage facility for dyed fuel) to limit each penalty to intentional violations. (6) Revises proposed amendment to 105-449.115A(b) to require transporter to keep a copy of certain documents at a centralized place of business rather than at "the place of business."

August 10, 2005

H 105. MOTOR FUEL TAX CHGS & REV LAWS TECHNICAL CHGS (NEW). Intro. 2/8/05.

Senate committee substitute adopted 8/9/05 makes the following changes to 2nd edition. Designates existing provisions of bill as Part I, incorporates as Part II the provisions of S 159,

Revenue Laws Technical Changes, introduced 2/16/05, along with additional changes, and adds a Part III enacting two new sales tax refunds. The provisions of Part I modify the original bill as follows: (1) Changes the effective date of the proposed penalty defense in proposed GS 105-449.115(g) from January 1, 2006, to when it becomes law and applicable to penalties imposed on or after January 1, 2005. (2) Modifies the proposed new penalty in GS 105-449.123(a) by limiting it to intentional violations. (3) Makes technical and conforming changes.

Revenue laws technical changes. Part II includes the provisions of S 159, Revenue Laws Technical Changes, with the following changes: (1) Modifies property tax exemptions in GS 105-278.3 (property owned by religious organizations) and GS 105-278.7 (property used for educational, scientific, literary, or charitable purposes) to modernize the definition of literature to include literature of the screen and performance and exhibition of works based on literature. Further amends GS 105-278.7 to exempt property used for cultural purposes. (2) Amends GS 105-164.14(j)(3) to extend to air couriers services the sales tax refund for certain building materials, effective for sales made on or after August 1, 2005. (3) Conditioned on enactment of S 622, the budget, amends GS 105-187.51(b) (excise tax on mill machinery) to clarify that electricity is not an accessory for purposes of the tax and makes technical and conforming changes to the tax changes proposed in S 622. (4) Conforms GS 105-32.8 to refer to gross estate tax in lieu of reference to expired state death tax credit. (5) Modifies definition of wholesaler or importer in GS 105-113.68(a)(13) to reduce the resident brewery cap from 310,000 to 25,000 barrels of malt beverage a year. (6) Amends GS 105-113.112 to clarify when exceptions to the confidentiality rules for controlled substances tax information apply. (7) Amends GS 105-164.13(39) to clarify the requirements for qualifying for the sales tax exemption for free periodicals. (8) Amends GS 105-164.14(f) to extend to cities the same ability that counties have to receive information regarding local sales tax refunds. (9) Amends 105-469(a) to modify the reporting of local sales tax revenues. (11) Amends GS 59-35.2 to increase fees for obtaining from the Secretary of State certain certificates relating to partnerships. (12) Amends Section 43.4 of SL 2003-284 to delete language that would have conditioned repeal of special gross premiums tax rate on the occurrence of an event that is no longer expected to occur. (13) Makes technical and conforming changes.

Refund of sales and use taxes on fuel sold to interstate passenger air carriers. Part III enacts new GS 105-164.14(a1) and (a2) effective retroactively to January 1, 2005, and expiring January 1, 2007. Subsection (a1) allows an annual sales tax refund to interstate passenger air carriers that increase their operations in NC. The refund is for all state and local sales taxes paid on the increased amount of fuel used other than taxes refunded under subsection (a2). Subsection (a2) allows an annual sales tax refund to any interstate passenger air carrier. The refund is for all state and local sales taxes paid on fuel during the year over a threshold of \$2.5 million, but not including taxes refunded under subsection (a1). The two refunds are not alternatives but can both be taken by a single taxpayer.

August 10, 2005

H 105. MOTOR FUEL TAX CHGS & REV LAWS TECHNICAL CHGS. Intro. 2/8/05. Senate amendment makes the following changes to 3rd edition. Modifies proposed GS 105-449.115(g) to decrease from ten to seven days the period within which a person must notify the Secretary of Revenue of a fuel diversion in order to be eligible for a penalty waiver. Deletes GS 105-164.14(a1) (annual sales tax refund to interstate passenger air carriers that increase their operations in NC). Conditioned on the enactment of S 622, the budget, amends Section 6.12(b) of that act to make a technical correction.

August 12, 2005

H 105. MOTOR FUEL TAX CHGS & REV LAWS TECHNICAL CHGS. Intro. 2/8/05. Senate amendments make the following changes to 3rd edition, as amended. Effective for taxable years beginning on or after January 1, 2006, amendment #1 amends GS 105-114.1(a4) to provide that the tax under GS 105-122 applies only to the extent that it exceeds the taxes levied under other sections of the franchise tax law on the corporation or on a limited liability company whose assets must be included in the corporation's tax base. Amendment #2 enacts GS 105-164.14(k) to allow

motor sports racing teams and motor sports sanctioning bodies a refund of sales tax paid on aviation fuel used to travel to and from motorsports events, effective retroactively to January 1, 2005.

October 5, 2005

SL 2005-435 (H 105). MOTOR FUEL TAX CHANGES & REVENUE LAWS TECHNICAL CHANGES. *AN ACT TO MODIFY THE TAXATION OF MOTOR FUELS, TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES, AND TO ALLOW INTERSTATE PASSENGER AIR CARRIERS A REFUND OF SALES AND USE TAXES ON FUEL.* Summarized in *Daily Bulletin* 2/8/05, 5/4/05, 8/10/05, and 8/12/05. Enacted September 27, 2005. Effective September 27, 2005, except as otherwise provided.