

May 17, 2010

S 1177. REV. LAWS TECHNICAL & ADMIN. CHANGES. Filed 5/17/10. *TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS.*

Various Tax Law Changes. Amends GS 105-159.1(a) to conform the definition of *political party* in Chapter 105 to the definition in GS 163-96.

Amends GS 105-164.14(c) to permit a public library created by an act of the General Assembly, and therefore not a part of a unit of local government, to receive an annual sales and use tax refund. Effective July 1, 2008.

Amends GS 105-187.6(a) to exempt from the highway use tax the issuance of a certificate of title resulting from a transfer of a motor vehicle to a revocable trust from an owner who is the only beneficiary of the trust.

Amends GS 105-241.9(c) to clarify the content of the notice of a proposed assessment must include the date that a failure to pay penalty will apply to the proposed assessment and that the penalty will be assessed and applied without further notice if the proposed assessment is not paid by the specified date. Makes a conforming change to GS 105-241.11.

Amends GS 105-241.16 to clarify that before filing a petition for judicial review, a taxpayer must pay the disputed amount of tax, penalties, and interest that the final decision states is due in a contested case commenced at the Office of Administrative Hearings.

Amends GS 105-263 to clarify that 26 U.S.C § 7502 (federal mailbox rule), deeming the delivery or payment date of mailed document to be the date shown of the postmark stamped by the USPS, governs the submission by mail of documents and requests for extensions to the NC Department of Revenue. Makes conforming change to GS 105-241.11(b).

Amends GS 105-259(b) to permit nonparticipating manufacturers, as defined in GS 66-292, to access the information used to determine their escrow payments.

Amends GS 105-466(c) to provide that a county may change a local sales tax rate on the first day of any calendar quarter as long as the county gives the Department of Revenue at minimum of 60 days notice (under current law, requires 90 days notice).

Property Tax Changes. Current law allows certain classes of property to be designated as special classes and excluded from tax. Land within a historic district with a future intended use as the site for a historic structure may be classified for up to five years under the special classes designation. Taxes otherwise due on this land are a lien on the real property of the taxpayer. Amends GS 105-275 to clarify that any such liens are extinguished when a historic structure is located on the property within the five year time period.

Modifies GS 105-277.1C(b)(1) to clarify that the definition of *disabled veteran* applies to a deceased veteran whose death has been certified, as of January 1 preceding the tax year for which the exclusion is claimed, by the Department of Veteran Affairs or another federal agency to be the result of a service-connected condition. Deletes the option that the certification must indicate that the veteran had the disability prior to the date of the veteran's death. Defines *service-connected* as the term is used in 38 U.S.C. § 101.

Amends GS 105-277.8 to add an additional requirement that must be met before property owned by a nonprofit homeowner's association (HOA) is included in the appraisal of property owned by the members of the HOA instead of property owned by the HOA. Adds the requirement that all property owned by the HOA must be contained within the same taxing jurisdiction as the taxable property owned by the members of the HOA to which it is appended.

Amends GS 105-278(b) to clarify that when the historical significance of the property is lost or substantially impaired due to fire or other natural disaster (1) no deferred taxes are due and (2) all liens are extinguished on historic properties.

Amends GS 105-278.6(e) to clarify that all liens are extinguished for real property held by an organization for a charitable purpose as a site for future housing for low or moderate income persons or families when the property is used for low or moderate income housing within the allotted time period.

Amends GS 105-333 to add a definition for a *terminal* facility.

Rewrites Section 4 of SL 2009-308 to clarify that the repeal of the builder's inventory property tax deferral does not affect the eligibility of property receiving the benefit in the year immediately prior to the appeal. Corrects effective dates for the combined motor vehicle system by amending SL 2007-527, SL 2009-445, SL 2007-471, and SL 2008-134.

Motor Fuel Tax Changes. Current law requires taxpayers who must file an electronic return under Article 36C or Article 36D of GS Chapter 105 to pay the tax by electronic fund transfer. Amends GS 105-241(b)(2a) to provide that a taxpayer required to file an electronic return under Subchapter V (motor fuel taxes) of GS Chapter 105 or Article 3 (gasoline and oil inspection) of GS Chapter 119 must pay the tax by electronic funds transfer.

Amends GS 105-449.47A to provide that a motor carrier that wants to register in North Carolina as its base state must be incorporated or organized in NC or authorized to transact business in this state per the requirements set out in GS 105-449.69(b).

Amends GS 105-449.105A to repeal the provisions for refunds provided to a distributor who sells kerosene to (1) a retailer who dispenses the kerosene from a locked dispensing device that must be unlocked by the retailer for each sale, or (2) an airport to be used only for fueling airplanes. Clarifies that a distributor who sells non-dyed kerosene to an end-user for non-highway use may receive a monthly refund for the excise tax paid by the distributor. Effective January 1, 2011.

Amends GS 105-449.106(b) to add a definition for *taxicab*.

Amends GS 105-449.106(c) to clarify that the quarterly refund of motor fuel tax paid on fuel used to operate special mobile equipment is for the *non-highway* operation of the equipment. Effective October 1, 2010 and applies to motor fuel purchased on or after that date.

Amends GS 105-449.108(b) to provide that applications for refunds must be filed in the form required by the Secretary.

Other Changes. Amends GS 55-16-22(c) to provide that a corporation's annual report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth (was third) month following the close of the corporation's fiscal year.

Amends GS 57C-2-23 regarding the form and the content of an annual report of a domestic or foreign limited liability company (excludes a professional limited liability company governed by GS 57C-2-01) submitted to the Secretary of State. Directs that the annual report be filed in the manner required by the Secretary and (1) specifies that it must indicate the year to which the report applies and (2) requires that the information must be current as of the date the company completes the report. Provides that the first annual report of a limited liability company is due by April 15 of the year that follows the calendar year in which the company files its articles of organization with the Secretary of State and each subsequent annual report is due on April 15. Provides that the changes to GS 57C-2-23 are effective when the act becomes law; however, provides that a limited liability company who filed its articles of organization on or after January 1, 2010, but prior to April 15, 2010, is not required to file an annual report until April 15, 2011; provides that a limited liability company formed during this period that has filed an annual report that is not required is considered to have filed the annual report due on April 15, 2011; and provides that a limited liability company formed before January 1, 2009 that has filed an annual report in each calendar year after the calendar year in which it filed its articles of organization is considered to have met its annual report filing requirements.

Also corrects drafting errors, makes additional clarifying changes, removes duplicate headings, corrects incorrect statutory references, deletes redundancies, and makes other technical changes and corrections.

Intro. by Clodfelter.

GS 55, 57C, 105, 143B, 159, 160A

May 26, 2010

S 1177. REV. LAWS TECHNICAL & ADMIN. CHANGES. Filed 5/17/10. Senate committee substitute makes technical changes and the following substantive changes to 1st edition. Repeals Section 27A3.(c) of SL 2009-451 which amended GS 105-164.8 concerning retailers' obligation to collect sales tax on certain remote sales. Eliminates changes to GS 105-277.8 concerning taxation of nonprofit homeowners' association property. Changes obligations to file new annual reports for certain limited liability companies. Requires Secretary of State to account for duplicate filing fees and to amend annual reporting form to explain new reporting requirements and to reflect new reporting obligations for limited liability companies.

June 24, 2010

S 1177. REV. LAWS TECHNICAL & ADMIN. CHANGES. Filed 5/17/10. House committee substitute makes the following changes to 2nd edition.

Amends GS 105-466(c) to maintain the current requirement that counties provide the Department of Revenue with at least 90 days advance notice of a new sales and use tax levy or tax rate change (was, changed to 60 days advance notice in 2nd edition).

Repeals GS 105-164.15 (directs the Secretary of Revenue to provide forms to all retailers and wholesale merchants for filing returns).

Amends GS 105-523(d) to correct the reference to the Department of Human Resources to the Department of Health and Human Services (DHHS). Directs DHHS to provide the Secretary of Revenue the necessary data to determine a county's hold harmless threshold by February 24th of each year and the data needed for the final calculation of each county's hold harmless threshold by July 24th of each year.

Rewrites Section 7(c) of SL 2007-383, as amended, to provide that despite the provisions of GS 62A-43, (service charge for 911 service) the charge imposed by that statute does not apply to prepaid wireless telephone service for the 2008, 2009, 2010, and 2011 calendar years (was, 2008, 2009, and 2010 calendar years).

June 28, 2010

S 1177. REV. LAWS TECHNICAL & ADMIN. CHANGES. Filed 5/17/10. House amendment makes the following change to 3rd edition.

Makes a tax levied under Article 46 of GS Chapter 105 (1/4¢ county sales and use tax) during the 2010 calendar year effective on the first day of any calendar quarter provided the county gives the Secretary of Revenue at least 75 days advance notice of the new tax levy, notwithstanding GS 105-466(c), as amended by the act.

June 29, 2010

S 1177. REV. LAWS TECHNICAL & ADMIN. CHANGES. Filed 5/17/10. House amendment makes the following changes to 3rd edition, as amended. Deletes Section 36 of the bill, involving requirements for filing of annual reports of limited liability companies with the Secretary of State.

July 28, 2010

SL 2010-95 (S 1177). REVENUE LAWS TECHNICAL AND ADMINISTRATIVE CHANGES. AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS. Summarized in *Daily Bulletin* 5/17/10, 5/26/10, 6/24/10, 6/28/10, and 6/29/10. Enacted July 17, 2010. Effective July 17, 2010, except as otherwise provided.