March 10, 2009

S 509. REV LAWS TECH, CLARIFYING, & ADMIN. CHANGES. Filed 3/10/09. *TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS*.

Corporate, Excise, and Insurance Taxes. Amends GS 105-41(a) to add associate home inspectors to the list of individuals charged a $50 statewide license tax for the privilege of practicing a profession or engaging in business.

Amends GS 105-130.4(h) (Allocation and apportionment of income for corporations) by substituting *nonbusiness activities* with *activities producing nonapportionable income*.

Makes a technical change to GS-105-130.18 (Failure to file returns; supplementary returns).

Amends Section 4(b) of SL 2008-134 (changing who may sign corporate returns) by making the effective date for taxable years beginning on or after January 1, 2008 (was, January 1, 2009).

Amends GS 105-228.5B by changing the time that the State Treasurer must transfer an amount equal to the growth in net revenue from tax applied to gross premiums from the General Fund to the North Carolina Health Insurance Risk Pool Fund from within 75 days after the end of the fiscal year to by November 1 of each year. Effective June 30, 2010, amends GS 105-228.5B, as amended by SL 2008-118, by changing the time that the State Treasurer must transfer an amount equal to 30% of the growth in revenue from the tax applied to gross premiums from the General Fund to the North Carolina Health Insurance Risk Pool Fund from within 75 days after the end of each fiscal year to by November 1 of each year.

Sales and Use Tax Changes. Effective for purchases made on or after July 1, 2008, amends GS 105-164.14(j)(2)n. (appears to intend to amend (j)(3)n.) (annual refund of sales and use taxes for solar electricity generating materials manufacturing) by replacing *energy* with *electricity* for consistency in terminology.

Makes technical changes to GS 105-187.51C(c) (Tax imposed on datacenter machinery and equipment).

Property Tax Changes. Amends GS 105-273(6) by reinserting *shares* to the definition of *corporation*, which was inadvertently removed in the 2008 amendments. Amends GS 105-277.1B(i)(2) by clarifying that if a co-owner or a co-owner's spouse (was, spouse residence) inherits the owner's share of the property when the owner dies, it is not a disqualifying event under the property tax homestead circuit breaker. Amends GS 105-277.1B (Effective for taxes imposed for taxable years beginning on or after July 1, 2009) to define *deferred taxes* as the principal amount of tax deferred under this section. Clarifies that a qualifying owner has occupied the property as a permanent residence for at least five years *and has owned the property as a permanent residence for at least five consecutive years*. Requires that the tax collector mail a notice stating the amount of deferred taxes and interest due and payable upon the occurrence of a disqualifying event to the mailing address of the residence (was, notify each residence owner to whom a tax deferral has been previously granted of the accumulated sum of deferred taxes and interest). Provides that, if an owner of a residence is not eligible for continued deferral for a tax year, the three years (was, prior tax years) for which the deferred taxes are carried forward are not due and payable until a disqualifying event occurs. Makes other clarifying changes.

Effective for taxes imposed for taxable years beginning on or after July 1, 2008, adds free samples of drugs that are required by federal law to be dispensed only on prescription and are given to physicians and other medical practitioners to dispense free of charge in the course of their practice as a special class of property excluded from taxation in GS 105-282.1(a)(1) (Applications for property tax exemption or exclusion; annual review of property exempted or excluded from property tax).

Adds a solar energy electric system to the list of special classes of property excluded from taxation in GS 105-282.1(a)(2) (regarding the single application for properties eligible for a tax benefit) for the section's multiple effective dates as follows: (1) taxable years beginning before July 1, 2009, (2) taxable years beginning on or after July 1, 2009 and before July 1, 2010, and (3) taxable years beginning on or after July 1, 2010. Also includes working waterfront property in the special classes of property classified for taxation at a reduced valuation and repeals GS 105-277.14(d), which sets forth a separate application process.

Amends GS 105-275 to provide that the classes of property set forth in the statute are excluded from tax if they satisfy the application requirements of GS 105-282.1 (was, the property may not be listed, appraised, assessed, or taxed). Makes technical changes.

Amends GS 105-277.1 for the section's multiple effective dates as follows: (1) effective for taxable years beginning before July 1, 2009, and (2) effective for taxable years beginning on or after July 1, 2009, to clarify throughout that husband and wife co-owners for the purposes of the property tax homestead exclusion are *tenants by the entirety*. Also makes the same clarifying change to GS 105-277.1B (Effective for taxes imposed for taxable years beginning on or after July 1, 2009).

Amends GS 105-361(a) to require that the tax collector furnish a written certificate stating the amount of any taxes and special assessments *owed* for the current year and for *any* prior years (was, for prior years in his hands for collection (together with any penalties, interest, costs accrued thereon) including the amount due if the property loses its eligibility for the benefit of classification that are a lien on a parcel of property in the taxing unit). Also requires that the certificate include deferred taxes that are due and payable because of the occurrence of a disqualifying event.

Occupancy Tax Changes. Amends Section 1 of SL 2008-33 (Cherokee county occupancy tax changes) by adding a reference to Section 21(e) of SL 2007-527, which changed the date for remitting occupancy tax proceeds and filing returns, and sets forth revisions made in SL 2008-33. Also makes a technical change to Section 21(j) of SL 2007-527. Amends Section 1(b) of SL 2005-68 (occupancy tax to finance the NASCAR Hall of Fame Museum) to add a reference to Section 21(cc) of SL 2007-527.

Motor Fuel Tax Changes. Amends GS 105-449.72 to create an exception from the requirement that a distributor, importer, or motor fuel transporter obtain a bond or irrevocable letter of credit if the person is supplying motor fuel when the market for motor fuel is disrupted and emergency supplies are needed, as identified by an executive order of the Governor. Makes a technical change to GS 105-449.121(b)(2) (related to record-keeping requirements and inspection authority) and a conforming change to GS 105-449.136 (Tax on alternative fuel).

Other Changes. Amends Section 67(a) of SL 2008-134 by correcting the statutory reference to reflect that GS 58-6-25(a)(2) (disregarding the additional local fire and lightning tax imposed by GS 105-228.5(d)(4) in determining an insurance company's premium tax liability for a taxable year) was repealed.

Amends GS 153A-156.1 by requiring that cities and counties levy a gross receipts tax in lieu of a property tax on the short term rental of heavy equipment by ordinance (was, resolution). Specifies that this section does not affect the rights or liabilities of a county or city, a taxpayer, or another person arising under GS 160A-215.2 or GS 153A-156.1 before the effective date, nor does it affect the right to any refund or credit that accrued under those statutes before the effective date. All existing ordinances or resolutions enacted prior to the effective date continue in full force until repealed, modified, or amended.

Effective when the act becomes law unless otherwise noted.

Intro. by Hartsell. GS 105, 153A, 160A

June 10, 2009

S 509. REV LAWS TECH, CLARIFYING & ADMIN CHANGES. Filed 3/10/09. Senate committee substitute makes numerous organizational and additional technical and clarifying changes to provisions of GS Chapter 105 in addition to those contained in the 1st edition. Also makes numerous administrative changes to GS Chapter 105, including the following: Amends GS 105-129.27 to provide that recycling facility may not claim credits under either GS 105-129.9 or GS 105-129.88 if it claims credit under that section; effective for tax years beginning on or after January 1, 2007. Amends GS 105-151.29 and GS 105-130.47 to provide that annual reports on film industry credits are to be based on credits taken and not on credits claimed. Amends GS 105-164.44G to provide that the distribution formula for sales tax on modular homes that is distributed to counties is as provided in GS 105-486, effective October 1, 2009. Amends GS 105-538 to specify that bundled transactions are not covered by tax levied by that section. Amends various sections of Article 22A of GS Chapter 105, which deals with taxation of motor vehicles.

Changes the effective date of SL 2007-471 from July 1, 2010, to July 1, 2011, and also repeals Section 63 of SL 2008-134 effective July 1, 2011. Specifies method for determining date on which value of vehicle is determined. Specifies that attempting to evade or aiding and abetting the evading of the tax is a Class 2 misdemeanor. Amends GS 105-330.1 to exempt vehicles issued permanent plates and self-propelled property-carrying vehicles issued 3 months registration plates at the farmer rate from classification under the combined system. Clarifies that taxes on a classified motor vehicle that is registered on an annual basis are due at registration application or no later than 45 days after registration expires. Amends GS 105-449.45 to allow Secretary to designate form in which motor fuel tax reports must be made, effective January 1, 2010. Amends GS 105-449.81 to provide that ethanol produced in state is taxable when removed from a storage facility at the production site and ethanol produced outside the state is taxed when it is imported into the state; effective January 1, 2010.

July 20, 2009

S 509. REV LAWS TECH, CLARIFYING, & ADMIN. CHANGES. Filed 3/10/09. House committee substitute makes the following changes to 2nd edition.

Amends GS 105-163.011 regarding tax credits allowed for qualified business investments. Clarifies that the aggregate amount of credit allowed for an individual for one or more investments *made* in a single taxable year may not exceed $50,000 and provides that the credit may (was, shall) be taken for the taxable year that begins during the calendar year in which the application for credit becomes effective as provided in subsection (c) of this statute. Provides that the aggregate credit taken by certain pass-through entities for one or more investments *made* in a single taxable year may not exceed $750,000 and provides that a pass-through entity is eligible (was, shall be eligible) for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section. Makes additional clarifying and technical changes.

Amends GS 105-163.012 to delete the provision providing that the $50,000 limitation on the amount of tax credit allowed a taxpayer under GS 105-163.011 does not apply to unused amounts carried forward under subsection (a).

Amends GS 105-130.34(a) regarding tax credits for qualified donations of interests in real property by a C Corporation to provide that the credit allowed *for one or more qualified donations made in a taxable year* may not exceed $500,000.

Amends GS 105-151.12 regarding a tax credit for a qualified donation of an interest in certain real property located in North Carolina to clarify that the credit for individuals and pass-through entities applies to qualified donations of the real property made during the taxable year.

Deletes the repeal of GS 105-164.13(40) [which exempts sales to the Department of Transportation from sales tax].

Amends GS 105-164.14(b) to make organizational changes to the subsection. Provides that the semiannual refund of sales and use tax to nonprofit entities and to hospitals for sales and use taxes paid on purchased medicines and drugs does not apply to an entity that is owned and controlled by the United States or owned and controlled by the state and not listed in this subsection (was, refund did not apply to a unit of local government except for certain hospital facilities and nonprofit hospitals owned and controlled by a unit of local government).

Current law provides criteria for a corporation to make a written request to the Secretary of Revenue (Secretary) for permission to use an alternative apportionment method. Amends GS 105-130.4(t1) to provide that any return that uses an alternative apportionment method other than the method prescribed by statute is used without permission of the Secretary and is not a lawful return.

Simplifies the provisions regarding the local sales tax for Mecklenburg County in SL 1967-1096 (allowed for a special election in Mecklenburg County to vote on implementing a 1% local sales and use tax). Provides that the Secretary is to administer the sales and use tax imposed under this division and except as otherwise provided in this division, the levy, collection, administration, and repeal of the tax is in accordance with GS Chapter 105, Article 39. Directs the Secretary to divide the net proceeds of the tax collected under this division on items other than

food to Mecklenburg County and its municipalities in accordance with the ad valorem distribution method described in GS 105-472(b)(2).

Amends GS 105-277.1B to clarify that a person may defer the portion of the principal amount of tax that is imposed for the current tax year on the residence and that exceeds the percentage of the qualifying owner's income.

Amends GS 20-63(h)(1) to provide that for purposes of determining when a contract agent for the Division of Motor Vehicles (DMV) receives compensation, a *transaction* includes the issuance of a registration card issued without collection of property taxes or fees under GS 105-330.5.

Amends the effective date for the following provisions, as amended, to make them effective July 1, 2011 (applies to combined tax and registration notices issued on or after that date) or *when the DMV and the Department of Revenue certify that the integrated computer system or registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first*: GS 105-330, GS 105-330.1 through GS 105-330.5, GS 105-130.8, GS 20-79.1A, GS 20-63(h).

Amends GS 105-259(b) prohibiting an officer, employee, or an agent of the state with access to tax information in the course of service or employment by the state from disclosing that information to any other person except as provided in this subsection. Specifies that the standards used or to be used for the selection of returns for examination and the data used or to be used for determining the standards may not be disclosed for any purpose. Provides that all other tax information may be disclosed only if it is disclosed for one of the listed purposes.

Makes a technical correction to the effective date for SL 2008-204, Section 5.4.

August 18, 2009

SL 2009-445 (S 509). REVENUE LAWS TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES. *AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS.* Summarized in *Daily Bulletin* 3/10/09, 6/10/09, and 7/20/09. Enacted August 7, 2009. Effective August 7, 2009, except as otherwise provided.