

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

D

SENATE BILL 763*
PROPOSED COMMITTEE SUBSTITUTE S763-PCS35588-RBx-67

Short Title: Revenue Laws Technical Changes.

(Public)

Sponsors:

Referred to:

May 15, 2014

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO VARIOUS
3 REVENUE LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Section 7.2(a) of S.L. 2014-3 reads as rewritten:

6 "**SECTION 7.2.(a)** This act shall not be construed to affect the interpretation of any statute
7 that is the subject of a State tax audit ~~pending as of the effective date of this act for taxable~~
8 years beginning before January 1, 2015, or litigation that is a direct result of such audit."

9 **SECTION 1.(b)** Section 7.3 of S.L. 2014-3 reads as rewritten:

10 "**SECTION 7.3.** This Part becomes effective January 1, 2015, and applies to withdrawals
11 of items from inventory for contracts entered into on or after that date, sales on or after that
12 ~~date date~~, and contracts entered into on or after that date."

13 **SECTION 2.(a)** Section 8.1(c) of S.L. 2014-3 reads as rewritten:

14 "**SECTION 8.1.(c)** With respect to the change in this section regarding the rental of a
15 private residence, cottage, or similar accommodation that is rented for fewer than 15 days in a
16 calendar year and that is listed with a real estate broker or agent, the following provisions
17 apply:

18 (1) A retailer is ~~not~~ liable for an overcollection ~~or undercollection~~ of sales tax or
19 occupancy tax for the rental of such an accommodation that is occupied or
20 available to be occupied for nights beginning June 14, 2012, and ending June
21 30, 2014, and must remit the tax collected.

22 (2) A retailer is not liable for an undercollection of sales tax or occupancy tax
23 for the rental of such an accommodation that is occupied or available to be
24 occupied for nights beginning June 1, 2014, and ending June 30, 2014, if the
25 retailer has made a good-faith effort to comply with the law and collect the
26 proper amount of tax and has, due to the change under this section,
27 overcollected or undercollected the amount of sales tax or occupancy tax
28 that is due. This subsection applies only to the period beginning June 14,
29 2012, and ending July 1, 2014.tax."

30 **SECTION 2.(b)** This section becomes effective June 1, 2014.

31 **SECTION 3.** Section 14.26 of S.L. 2014-3 is repealed.

32 **SECTION 4.(a)** G.S. 105-113.35(d) reads as rewritten:

33 "(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships
34 tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed
35 under this Part may apply to the Secretary to be relieved of paying the tax imposed by this
36 section on the tobacco products. A manufacturer who ships vapor products to either a



* S 7 6 3 - P C S 3 5 5 8 8 - R B X - 6 7 *

1 wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be
2 relieved of paying the tax imposed by this section on the vapor products shipped to either a
3 wholesale dealer or retail dealer. Once granted permission, a manufacturer may choose not to
4 pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax
5 imposed by this section, a manufacturer must comply with the requirements set by the
6 Secretary.

7 Permission granted under this subsection to a manufacturer to be relieved of paying the tax
8 imposed by this section applies to an integrated wholesale dealer with whom the manufacturer
9 is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with
10 whom it is an affiliate when the manufacturer applies to the Secretary for permission to be
11 relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the
12 manufacturer after the Secretary has given the manufacturer permission to be relieved of
13 paying the tax.

14 If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products
15 other than cigarettes and the person is granted permission under G.S. 105-113.10 to be relieved
16 of paying the cigarette excise tax, the permission applies to the tax imposed by this section on
17 tobacco products other than cigarettes. A cigarette manufacturer who becomes a wholesale
18 dealer after receiving permission to be relieved of the cigarette excise tax must notify the
19 Secretary of the permission received under G.S. 105-113.10 when applying for a license as a
20 wholesale dealer."

21 **SECTION 4.(b)** This section becomes effective June 1, 2015.

22 **SECTION 5.** G.S. 105-129.16A reads as rewritten:

23 **"§ 105-129.16A. Credit for investing in renewable energy property.**

24 (a) ~~Credit. – If a taxpayer that has constructed, purchased, or leased renewable energy~~
25 ~~property places it in service in this State during the taxable year, the taxpayer is allowed a~~
26 ~~credit equal to thirty five percent (35%) of the cost of the property. A taxpayer that has~~
27 ~~constructed, purchased, or leased renewable energy property is allowed a credit equal to~~
28 ~~thirty-five percent (35%) of the cost of the property if the property is placed in service in this~~
29 ~~State during the taxable year.~~ In the case of renewable energy property that serves a
30 nonbusiness purpose, the credit must be taken for the taxable year in which the property is
31 placed in service. For all other renewable energy property, the entire credit may not be taken
32 for the taxable year in which the property is placed in service but must be taken in five equal
33 installments beginning with the taxable year in which the property is placed in service. Upon
34 request of a taxpayer that leases renewable energy property, the lessor of the property must give
35 the taxpayer a statement that describes the renewable energy property and states the cost of the
36 property. No credit is allowed under this section to the extent the cost of the renewable energy
37 property was provided by public funds. For the purposes of this section, "public funds" does not
38 include grants made under section 1603 of the American Recovery and Reinvestment Tax Act
39 of 2009.

40"

41 **SECTION 6.** Section 1.1(a) of S.L. 2014-3 is rewritten to read:

42 **"SECTION 1.1.(a)** G.S. 105-130.5(b), as amended by Section 14.3 of this act, reads as
43 rewritten:

44 "(b) The following deductions from federal taxable income shall be made in determining
45 State net income:

46 ...

47 (4) ~~Losses in the nature~~ Any unused portion of a net economic loss as allowed
48 under G.S. 105-130.8A(e). ~~losses sustained by the corporation in any or all of~~
49 ~~the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A~~
50 ~~corporation required to allocate and apportion its net income under the~~
51 ~~provisions of G.S. 105-130.4 shall deduct its allocable and apportionable net~~

1 ~~economic loss only from total income allocable and apportionable to this~~
 2 ~~State pursuant to the provisions of G.S. 105-130.8. This subdivision expires~~
 3 ~~for taxable years beginning on or after January 1, 2030.~~

4 (4a) A State net loss as allowed under G.S. 105-130.8A. A corporation may
 5 deduct its allocable and apportionable State net loss only from total income
 6 allocable and apportionable to this State.

7"

8 **SECTION 7.(a)** G.S. 105-134.6A, as amended by S.L. 2014-3, reads as rewritten:

9 "(h) Definitions. – ~~For purposes of this section, a "transferor" is an~~ The following
 10 definitions apply in this section:

11 (1) Transferor. – An individual, partnership, corporation, S Corporation, limited
 12 liability company, or an estate or trust that does not fully distribute income
 13 to its beneficiaries, and an "owner in a transferor" is a beneficiaries.

14 (2) Owner in a transferor. – One or more of the following of a transferor:

15 a. A partner, shareholder, member, or beneficiary or member.

16 b. A beneficiary subject to tax under Part 2 or 3 of Article 4 of this
 17 Chapter of a transferor.Chapter."

18 **SECTION 7.(b)** G.S. 105-153.6, as amended by S.L. 2014-3, reads as rewritten:

19 "(h) Definitions. – ~~For purposes of this section, a "transferor" is an~~ The following
 20 definitions apply in this section:

21 (1) Transferor. – An individual, partnership, corporation, S Corporation, limited
 22 liability company, or an estate or trust that does not fully distribute income
 23 to its beneficiaries, and an "owner in a transferor" is a beneficiaries.

24 (2) Owner in a transferor. – One or more of the following of a transferor:

25 a. A partner, shareholder, member, or beneficiary or member.

26 b. A beneficiary subject to tax under Part 2 or 3 of Article 4 of this
 27 Chapter of a transferor.Chapter."

28 **SECTION 7.(c)** Subsection (a) of this section is effective for taxable years
 29 beginning on or after January 1, 2013. Subsection (b) of this section is effective for taxable
 30 years beginning on or after January 1, 2014. The remainder of this section is effective when it
 31 becomes law.

32 **SECTION 8.(a)** G.S. 105-153.4 reads as rewritten:

33 **"§ 105-153.4. North Carolina taxable income defined.**

34 (a) Residents. – For an individual who is a resident of this State, the term "North
 35 Carolina taxable income" means the taxpayer's adjusted gross income as modified in
 36 G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A.~~ G.S. 105-153.6.

37 (b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable
 38 income" means the taxpayer's adjusted gross income as modified in G.S. 105-153.5 and
 39 ~~G.S. 105-153.6 and G.S. 105-134.6A,~~ G.S. 105-153.6, multiplied by a fraction the denominator
 40 of which is the taxpayer's gross income as modified in G.S. 105-153.5 and ~~G.S. 105-153.6 and~~
 41 ~~G.S. 105-134.6A,~~ G.S. 105-153.6, and the numerator of which is the amount of that gross
 42 income, as modified, that is derived from North Carolina sources and is attributable to the
 43 ownership of any interest in real or tangible personal property in this State, is derived from a
 44 business, trade, profession, or occupation carried on in this State, or is derived from gambling
 45 activities in this State.

46 (c) Part-year Residents. – If an individual was a resident of this State for only part of
 47 the taxable year, having moved into or removed from the State during the year, the term "North
 48 Carolina taxable income" has the same meaning as in subsection (b) of this section except that
 49 the numerator includes gross income, as modified under G.S. 105-153.5 and ~~G.S. 105-153.6~~
 50 ~~and G.S. 105-134.6A,~~ G.S. 105-153.6, derived from all sources during the period the individual
 51 was a resident.

1 (d) S Corporations and Partnerships. – In order to calculate the numerator of the
2 fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share
3 of S Corporation ~~income~~income, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is
4 includable in the numerator is the shareholder's pro rata share of the S Corporation's income
5 attributable to the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of
6 the fraction provided in subsection (b) of this section for a member of a partnership or other
7 unincorporated business that has one or more nonresident members and operates in one or more
8 other states, the amount of the member's distributive share of the total net income of the
9 ~~business~~business, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is includable in the
10 numerator is determined ~~by multiplying the total net income of the business by the ratio~~
11 ~~ascertained under the~~ in accordance with the provisions of G.S. 105-130.4. As used in this
12 subsection, total net income means the entire gross income of the business less all expenses,
13 taxes, interest, and other deductions allowable under the Code that were incurred in the
14 operation of the business.

15 (e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis
16 of the taxable year used in computing the taxpayer's income tax liability under the Code."

17 **SECTION 8.(b)** G.S. 105-153.5 is amended by adding a new subsection to read:

18 "(c1) Other Additions. – S Corporations subject to the provisions of Part 1A of this
19 Article, partnerships subject to the provisions of this Part, and estates and trusts subject to the
20 provisions of Part 3 of this Article must add any amount deducted under section 164 of the
21 Code as state, local, or foreign income tax."

22 **SECTION 8.(c)** This section becomes effective for taxable years beginning on or
23 after January 1, 2014.

24 **SECTION 9.(a)** Notwithstanding G.S. 105-163.15, the Secretary of Revenue may
25 not impose interest with respect to an underpayment of income tax to the extent the
26 underpayment was created or increased by the changes made in Section 2.2 of S.L. 2014-3.
27 Notwithstanding G.S. 105-163.8, a withholding agent is not liable for the amount of tax the
28 agent fails to withhold to the extent the amount of tax not withheld was created or increased by
29 the changes made in Section 2.2 of S.L. 2014-3.

30 **SECTION 9.(b)** This section is effective when it becomes law and applies to
31 taxable years beginning on or after January 1, 2014, and before January 1, 2015, and to payroll
32 periods beginning on or after January 1, 2014, and before January 1, 2015.

33 **SECTION 10.** G.S. 105-164.3(35), as amended by Section 14.7 of S.L. 2014-3,
34 reads as rewritten:

35 "**§ 105-164.3. Definitions.**

36 The following definitions apply in this Article:

37 ...

38 (35) ~~Retailer. – A person engaged in business of any of the following:~~Any of the
39 following persons:

- 40 a. ~~Making~~A person engaged in business of making sales at retail,
41 offering to make sales at retail, or soliciting sales at retail of tangible
42 personal property, digital property, or services for storage, use, or
43 consumption in this State. When the Secretary finds it necessary for
44 the efficient administration of this Article to regard any sales
45 representatives, solicitors, representatives, consignees, peddlers, or
46 truckers as agents of the dealers, distributors, consignors,
47 supervisors, employers, or persons under whom they operate or from
48 whom they obtain the items sold by them regardless of whether they
49 are making sales on their own behalf or on behalf of these dealers,
50 distributors, consignors, supervisors, employers, or persons, the
51 Secretary may so regard them and may regard the dealers,

distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article.

- b. ~~Delivering~~, A person engaged in business of delivering, erecting, installing, or applying tangible personal property for use in this State, regardless of whether the property is permanently affixed to real property or other tangible personal property.
- c. ~~Making~~ A person engaged in business of making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.
- d. A person, other than a facilitator, required to collect the tax levied under G.S. 105-164.4(a)."

SECTION 11. G.S. 105-164.4G, as enacted by S.L. 2014-3, reads as rewritten:

"§ 105-164.4G. Entertainment activity.

...

(f) Exemptions. – The sale at retail and the use, storage, or consumption in this State of the following gross receipts derived from an admission charge to an entertainment activity are specifically exempt from the tax imposed by this Article.

(g) Sourcing. – ~~Admission~~ An admission charge to an entertainment activity is sourced to the location where admission to the entertainment activity may be gained by a person. When the location where admission may be gained is not known at the time of the receipt of the gross receipts for an admission charge, the sourcing principles in G.S. 105-164.4B(a) apply."

SECTION 12.(a) G.S. 105-164.13, as amended by Section 6.1(f) of S.L. 2014-3, reads rewritten:

"§ 105-164.13. Retail sales and use tax.

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

- (8a) Sales to a small power production facility, as defined in 16 U.S.C. § 796(17)(A), of fuel and piped natural gas used by the facility to generate electricity.

...

- (10) Sales of the following to commercial laundries or to pressing and dry cleaning establishments:

- a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.
- b. Laundry and dry-cleaning machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.
- c. Fuel, other than ~~electricity~~, electricity and piped natural gas, used in the direct performance of the laundering or the pressing and cleaning service.

...

- (57) ~~Fuel and~~ Fuel, piped natural gas, and electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to electricity used at a facility at which the primary activity is not manufacturing.

...."

SECTION 12.(b) G.S. 105-164.13, as amended by Section 6.1(f) of S.L. 2014-3, reads as rewritten:

1 **"§ 105-164.13. Retail sales and use tax.**

2 The sale at retail and the use, storage, or consumption in this State of the following tangible
3 personal property, digital property, and services are specifically exempted from the tax imposed
4 by this Article:

- 5 ...
- 6 (62) An item used to maintain or repair tangible personal property or a motor
7 vehicle pursuant to a service contract taxable under this Article if the
8 purchaser of the contract is not charged for the item. ~~This exemption does
9 not apply to an item used to maintain or repair tangible personal property
10 pursuant to a service contract exempt from tax under G.S. 105-164.4I(b).~~ For
11 purposes of this exemption, the term "item" does not include a tool,
12 equipment, supply, or similar tangible personal property used to complete
13 the maintenance or repair and that is not deemed to be a component or repair
14 part of the tangible personal property or motor vehicle for which a service
15 contract is sold to a purchaser."

16 **SECTION 12.(c)** G.S. 105-187.52(c) reads as rewritten:

17 "(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this
18 Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or
19 repair tangible personal property pursuant to a service contract exempt from tax under G.S.
20 105-164.4I(b)(4)."

21 **SECTION 12.(d)** Notwithstanding G.S. 105-164.13(62), as amended by S.L.
22 2014-3 and by subsection (b) of this section, the sales and use tax exemption in
23 G.S. 105-164.13(62) applies to an item used pursuant to a service contract that meets the
24 definition of a "service contract" as defined in G.S. 105-164.3(38b), notwithstanding that the
25 service contract was sold before January 1, 2014, and effective on, before, or after January 1,
26 2014.

27 **SECTION 12.(e)** Subsection (b) of this section becomes effective October 1, 2014.
28 The remainder of this section is effective when it becomes law.

29 **SECTION 13.** G.S. 105-164.13E, as amended by S.L. 2014-3, reads as rewritten:

30 **"§ 105-164.13E. Exemption for farmers.**

31 (a) Exemption. – A qualifying farmer is a person who has an annual gross income for
32 the preceding taxable year of ten thousand dollars (\$10,000) or more from farming operations
33 or who has an average annual gross income for the three preceding taxable years of ten
34 thousand dollars (\$10,000) or more from farming operations. A qualifying farmer includes a
35 dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a
36 farmer of an aquatic species, as defined in G.S. 106-758. A qualifying farmer may apply to the
37 Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption
38 certificate expires when a person fails to meet the income threshold for three consecutive
39 taxable years or ceases to engage in farming ~~operations.~~operations, whichever comes first.

40 The following tangible personal property, digital property, and services are exempt from
41 sales and use tax if purchased by a qualifying farmer and for use by the farmer in farming
42 operations. For purposes of this section, an item is used by a farmer for farming operations if it
43 is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of
44 dairy products, eggs, or animals:

- 45 (1) ~~Fuel and~~Fuel, piped natural gas, and electricity that ~~is~~are measured by a
46 separate meter or another separate device and used for a purpose other than
47 preparing food, heating dwellings, and other household purposes.

48 ...

49 (b) Conditional Exemption. – A person who does not meet the definition of a qualifying
50 farmer in subsection (a) of this section may apply to the Department for a conditional
51 exemption certificate under G.S. 105-164.28A. A person with a conditional exemption

1 certificate is allowed to purchase items exempt from sales and use tax to the same extent as a
2 qualifying farmer under subsection (a) of this section. To receive a conditional exemption
3 certificate under this subsection, the person must certify that the person intends to engage in
4 farming operations, as that term is described in subsection (a) of this section, and that the
5 person will timely file State and federal income tax returns that reflect income and expenses
6 incurred from farming operations during the taxable years that the conditional exemption
7 certificate applies.

8 A conditional exemption certificate issued under this subsection is valid for the taxable year
9 in which the certificate is issued and the following two taxable years, provided the person to
10 whom the certificate is issued provides copies of applicable State and federal income tax
11 returns to the Department within 90 days following the end of each taxable year covered by the
12 conditional exemption ~~certificate~~ certificate and provided the person is engaged in farming
13 operations. A conditional exemption certificate issued under this subsection may not be
14 extended or renewed beyond the original three-year period. The Department may not issue a
15 conditional exemption certificate to a person who has had a conditional exemption certificate
16 issued under this subsection during the prior 15 taxable years.

17 A person who purchases items with a conditional exemption certificate must maintain
18 documentation of the items purchased and copies of State and federal income tax returns that
19 reflect activities from farming operations for the period of time covered by the conditional
20 exemption certificate for three years following the expiration of the conditional exemption
21 certificate. The Secretary may require a person who has a conditional exemption certificate to
22 provide any other information requested by the Secretary to verify the person met the
23 conditions of this subsection. A person who fails to provide the information requested by the
24 Secretary in a timely manner or who fails to meet the requirements of this subsection becomes
25 liable for any taxes for which an exemption under this subsection was claimed. The taxes
26 become due and payable at the expiration of the conditional exemption certificate, and interest
27 accrues from the date of the original purchase. Additionally, where the person does not timely
28 provide the information requested by the Secretary, the misuse of exemption certificate penalty
29 in G.S. 105-236(a)(5a) applies to each seller identified by the Department from which the
30 person made a purchase."

31 (c) Definition. – For purposes of this section, the term "taxable year" has the same
32 meaning as defined in G.S. 105-153.3."

33 **SECTION 14.** G.S. 105-164.16A, as enacted by S.L. 2014-3, reads as rewritten:
34 "**§ 105-164.16A. Reporting ~~option~~ for prepaid meal plans.**

35 (a) Reporting Option. – This ~~section~~ subsection provides a taxpayer-retailer that offers
36 to sell a prepaid meal plan plan subject to the tax imposed by G.S. 105-164.4 with an option
37 concerning the method by which the sales tax will be remitted to the Secretary and a return
38 filed under G.S. 105-164.16. When the retailer enters into an agreement with a food service
39 contractor by which the food service contractor agrees to provide food or prepared food under a
40 prepaid meal plan, and the food service contractor with whom the retailer contracts is also a
41 retailer under this Article, the retailer may include in the agreement that the food service
42 contractor is liable for ~~collecting~~ reporting and remitting the sales tax due on the gross receipts
43 derived from the prepaid meal plan on behalf of the retailer. The agreement must provide that
44 the tax applies to the allocated sales price of the prepaid meal plan paid by or on behalf of the
45 person entitled to the food or prepaid food under the plan and not the amount charged by the
46 food service contractor to the retailer under the agreement for the food and prepared food for
47 the person.

48 A retailer who elects this option must report to the food service contractor with whom it has
49 an agreement the gross receipts a person pays to the retailer for a prepaid meal plan. The
50 retailer must send the food service contractor the tax due on the gross receipts derived from a
51 prepaid meal plan. Tax payments received by a food service contractor from a retailer are held

1 in trust by the food service contractor for remittance to the Secretary. A food service contractor
2 that receives a tax payment from a retailer must remit the amount received to the Secretary. A
3 food service contractor is not liable for tax due but not received from a retailer. A retailer that
4 does not send the food service contractor the tax due on the gross receipts derived from a
5 prepaid meal plan is liable for the amount of tax the retailer fails to send to the food service
6 contractor.

7 (b) Basis of Reporting. – A retailer must report gross receipts derived from a prepaid
8 meal plan on an accrual basis of accounting for purposes of this Article, notwithstanding that
9 the retailer reports tax on the cash basis for other sales at retail and notwithstanding that the
10 revenue has not been recognized for accounting purposes."

11 **SECTION 15.** Section 4.1(g) of S.L. 2014-3 reads as rewritten:

12 **"SECTION 4.1.(g)** This Part is effective when it becomes law and applies to the
13 following:

14 (1) ~~gross~~Gross receipts derived from a prepaid meal plan sold or billed on or
15 after July 1, 2014.

16 (2) Gross receipts derived from a prepaid meal plan sold or billed before July 1,
17 2014, if the prepaid meal plan is not authorized for use or available to the
18 person until on or after August 1, 2014."

19 **SECTION 16.** G.S. 105-164.20 reads as rewritten:

20 **"§ 105-164.20. Cash or accrual basis of reporting.**

21 Any retailer, except a retailer who sells electricity or telecommunications service, Except as
22 otherwise provided in this section, a retailer may report sales for purposes of this Article on
23 either the cash or accrual basis of accounting upon making application to the Secretary for
24 permission to use the basis selected. Permission granted by the Secretary to report on a selected
25 basis continues in effect until revoked by the Secretary or the taxpayer receives permission
26 from the Secretary to change the basis selected. ~~A retailer who sells electricity or~~
27 ~~telecommunications service~~ A retailer of the following must report its sales on an accrual basis.
28 ~~A sale of electricity or telecommunications service~~ basis for purposes of this Article and the tax
29 ~~on the sales price or gross receipts derived from the sale~~ is considered to accrue when the
30 retailer bills its customer for the ~~sale~~ sale or gross receipts:

31 (1) Electricity.

32 (2) Telecommunications service.

33 (3) Piped natural gas.

34 (4) Prepaid meal plans."

35 **SECTION 17.** G.S. 105-164.29(a), as amended by Section 14.9(b) of S.L. 2014-3,
36 reads as rewritten:

37 **"(a) Requirement and Application. – Before a person may engage in business as a**
38 **retailer or a wholesale merchant or when a facilitator is liable for tax under G.S. 105-164.4F,**
39 **the person must obtain a certificate of registration. To obtain a certificate of registration, a**
40 **person must register with the Department. A person who has more than one business is required**
41 **to obtain only one certificate of registration for each legal entity to cover all operations of each**
42 **business throughout the State. An application for registration must be signed as follows:**

43 **(1) By the owner, if the owner is an individual.**

44 **(2) By a manager, member, or company official, partner, if the owner is ~~an~~**
45 **~~association, a partnership,~~ a limited liability company.**

46 **(2a) By a manager, member, or partner, if the owner is a partnership.**

47 **(3) By an executive officer or some other person specifically authorized by the**
48 **corporation to sign the application, if the owner is a corporation. If the**
49 **application is signed by a person authorized to do so by the corporation,**
50 **written evidence of the person's authority must be attached to the**
51 **application."**

1 **SECTION 18.** G.S. 105-241.6(b)(5) reads as rewritten:
2 "(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a
3 refund of an overpayment are as follows:

4 ...

5 (5) Contingent Event. – The period to request a refund of an overpayment may
6 be extended as provided in this subdivision if an event or condition prevents
7 the taxpayer from possessing the information necessary to file an accurate
8 and definite request for a refund of an overpayment under this Chapter:

9 a. If a taxpayer is subject to a contingent event and files written notice
10 with the Secretary, the period to request a refund of an overpayment
11 is six months after the contingent event concludes.

12 ~~b.~~ ~~For purposes of this subdivision,~~ For purposes of this subdivision, a
13 "contingent event" means litigation or a State-state tax audit initiated
14 prior to the expiration of the statute of limitations under subsection
15 (a) of this section, the pendency of which prevents the taxpayer from
16 possessing the information necessary to file an accurate and definite
17 request for a refund of an overpayment under this Chapter.

18 ~~e.~~ ~~For purposes of this subdivision, "notice to the Secretary" means~~
19 ~~written notice~~ The written notice to the Secretary must be filed with
20 ~~the Secretary~~ prior to expiration of the statute of limitations under
21 subsection (a) of this section for a return or payment in which a
22 contingent event prevents a taxpayer from filing a definite request for
23 a refund of an overpayment. The notice must identify and describe
24 the contingent event, identify the type of tax, list the return or
25 payment affected by the contingent event, and state in clear terms the
26 basis for and an estimated amount of the overpayment.

27 ~~d.b.~~ ~~A~~ If a taxpayer who contends that an event or condition other than
28 litigation or a State tax audit a contingent event, as defined in this
29 subdivision, has occurred that prevents the taxpayer from filing an
30 accurate and definite request for a refund of an overpayment within
31 the period under subsection (a) of this section, the taxpayer
32 may submit a written request to the Secretary seeking an extension of
33 the statute of limitations allowed under this subdivision. The request
34 must establish by clear, convincing proof that the event or condition
35 is beyond the taxpayer's control and that it prevents the taxpayer's
36 timely filing of an accurate and definite request for a refund of an
37 overpayment. The request must be filed within the period under
38 subsection (a) of this section. The Secretary's decision on the request
39 is final and is not subject to administrative or judicial review.

40 **SECTION 19.(a)** G.S. 105-338(c), as amended by Section 11.1(e) of S.L. 2014-3,
41 reads as rewritten:

42 "(c) Certain Property of Bus Line, Motor Freight Carrier, ~~Airline, and Mobile~~
43 ~~Telecommunications and Airline Companies.~~ –

44 ...

45 (4) ~~The appraised valuation of the tangible personal property of a mobile~~
46 ~~telecommunications company (excluding towers) that is appraised in~~
47 ~~accordance with the provisions of G.S. 105-336(c) is allocated among the~~
48 ~~local taxing units in which the property of the company is situated on~~
49 ~~January 1 in the proportion that the original cost of the property in the taxing~~
50 ~~unit bears to the original cost of all such property in this State."~~

1 **SECTION 19.(b)** G.S. 105-339, as amended by Section 11.1(f) of S.L. 2014-3,
2 reads as rewritten:

3 "**§ 105-339. Certification of appraised valuations of nonsystem property and locally**
4 **assigned rolling stock, tangible personal property of tower aggregator**
5 **companies, and ~~certain~~—tangible personal property of mobile**
6 **telecommunications companies.**

7 Having determined the appraised valuations of the nonsystem properties of public service
8 companies in accordance with subdivisions (b)(2) and (b)(3) of G.S. 105-335 and the appraised
9 valuations of locally assigned rolling stock in accordance with subdivision (c)(1) of
10 G.S. 105-335, the appraised valuations of the tangible personal property of tower aggregator
11 companies in accordance with G.S. 105-336(d) and the appraised valuations of ~~towers of the~~
12 tangible personal property of mobile telecommunications companies in accordance with
13 G.S. 105-336(d), G.S. 105-336(c) and (d), the Department of Revenue shall assign those
14 appraised valuations to the taxing units in which such properties are situated by certifying the
15 valuations to the appropriate counties and municipalities. Each local taxing unit receiving such
16 certified valuations shall assess them at the figures certified and shall tax the assessed
17 valuations at the rate of tax levied against other property subject to taxation therein."

18 **SECTION 19.(c)** Section 11.1(g) of S.L. 2014-3 is repealed.

19 **SECTION 19.(d)** Subsection (c) of this section is effective when it becomes law.
20 The remainder of this section is effective for taxes imposed for taxable years beginning on or
21 after July 1, 2015.

22 **SECTION 20.(a)** G.S. 160A-206 reads as rewritten:

23 "**§ 160A-206. General power to impose taxes.**

24 (a) Authority. – A city shall have power to impose taxes only as specifically authorized
25 by act of the General Assembly. Except when the statute authorizing a tax provides for
26 penalties and interest, the power to impose a tax shall include the power to impose reasonable
27 penalties for failure to declare tax liability, if required, or to impose penalties or interest for
28 failure to pay taxes lawfully due within the time prescribed by law or ordinance. In determining
29 the liability of any taxpayer for a tax, a city may not employ an agent who is compensated in
30 whole or in part by the city for services rendered on a contingent basis or any other basis
31 related to the amount of tax, interest, or penalty assessed against or collected from the taxpayer.
32 The power to impose a tax shall also include the power to provide for its administration in a
33 manner not inconsistent with the statute authorizing the tax.

34 (b) Prohibition. – A city may not impose a license, franchise, or privilege tax on a
35 person engaged in any of the businesses listed in this subsection. These businesses are subject
36 to sales tax at the combined general rate for which the city receives a share of the tax revenue
37 or they are subject to the local sales tax:

38 (1) Supplying piped natural gas.

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

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

41 (4) Providing electricity."

42 **SECTION 20.(b)** G.S. 153A-146 reads as rewritten:

43 "**§ 153A-146. General power to impose taxes.**

44 (a) Authority. – A county may impose taxes only as specifically authorized by act of
45 the General Assembly. Except when the statute authorizing a tax provides for penalties and
46 interest, the power to impose a tax includes the power to impose reasonable penalties for failure
47 to declare tax liability, if required, and to impose penalties or interest for failure to pay taxes
48 lawfully due within the time prescribed by law or ordinance. In determining the liability of any
49 taxpayer for a tax, a county may not employ an agent who is compensated in whole or in part
50 by the county for services rendered on a contingent basis or any other basis related to the
51 amount of tax, interest, or penalty assessed against or collected from the taxpayer. The power to

1 impose a tax also includes the power to provide for its administration in a manner not
2 inconsistent with the statute authorizing the tax.

3 (b) Prohibition. – A county may not impose a license, franchise, or privilege tax on a
4 person engaged in any of the businesses listed in this subsection:

5 (1) Supplying piped natural gas.

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

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

8 (4) Providing electricity."

9 **SECTION 21.** The Department of Revenue may draw the funds needed to make
10 the following distributions from the sales and use tax collections under Article 5 of Chapter 105
11 of the General Statutes:

12 (1) The September 15, 2014, distribution of the franchise tax to cities under
13 G.S. 105-116.1 for the calendar quarter than begins April 1, 2014.

14 (2) The September 15, 2014, distribution of the excise tax to cities under
15 G.S. 105-187.44 for the calendar quarter than begins April 1, 2014.

16 **SECTION 22.** Except as otherwise provided, this act is effective when it becomes
17 law.