

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 20  
Finance Committee Substitute Adopted 2/10/15  
Third Edition Engrossed 2/12/15  
House Committee Substitute Favorable 3/3/15  
Fifth Edition Engrossed 3/5/15  
Proposed Conference Committee Substitute S20-PCCS45320-RBx-2

Short Title: IRC Update/Motor Fuel Tax Changes.

(Public)

Sponsors:

Referred to:

February 4, 2015

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE, TO  
DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL TAX INCREASE  
PREVENTION ACT OF 2014, TO MODIFY THE MOTOR FUELS TAX RATE, AND  
TO MAKE CERTAIN REDUCTIONS WITHIN THE DEPARTMENT OF  
TRANSPORTATION FOR THE 2014-2015 FISCAL YEAR.

The General Assembly of North Carolina enacts:

**PART I. IRC UPDATE**

**SECTION 1.1** G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~December 31, 2013~~, January 1, 2015, including any provisions enacted as of that date that become effective either before or after that date."

**SECTION 1.2.(a)** G.S. 105-130.5B(c) reads as rewritten:

**"§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation and expensing.**

...

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of ~~January 2, 2013~~. January 1, 2015. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for the taxable year.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	Dollar Limitation	Investment Limitation
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000



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1	2012	\$250,000	\$800,000
2	2013	\$25,000	\$200,000
3	<u>2014</u>	<u>\$25,000</u>	<u>\$200,000"</u>

4 **SECTION 1.2.(b)** G.S. 105-153.6(c) reads as rewritten:

5 **"§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation**  
 6 **and expensing.**

7 ...  
 8 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section  
 9 179 property has the same meaning as under section 179 of the Code as of ~~January 2, 2013.~~  
 10 January 1, 2015. A taxpayer who places section 179 property in service during a taxable year  
 11 listed in the table below must add to the taxpayer's federal taxable income or adjusted gross  
 12 income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's  
 13 expense deduction under section 179 of the Code exceeds the dollar and investment limitation  
 14 listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must  
 15 add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the  
 16 taxpayer must add the amount to the taxpayer's adjusted gross income.

17 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first  
 18 five taxable years following the year the taxpayer is required to include the add-back in income.

19 **Taxable Year of Dollar Limitation Investment Limitation**  
 20 **85% Add-Back**

21	2010	\$250,000	\$800,000
22	2011	\$250,000	\$800,000
23	2012	\$250,000	\$800,000
24	2013	\$25,000	\$200,000
25	<u>2014</u>	<u>\$25,000</u>	<u>\$200,000"</u>

26 **SECTION 1.3.** G.S. 105-153.5 reads as rewritten:

27 **"§ 105-153.5. Modifications to adjusted gross income.**

28 (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may  
 29 deduct from adjusted gross income either the standard deduction amount provided in  
 30 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)  
 31 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as  
 32 follows:

- 33 (1) Standard deduction amount. – The standard deduction amount is zero for a  
 34 person who is not eligible for a standard deduction under section 63 of the  
 35 Code. For all other taxpayers, the standard deduction amount is equal to the  
 36 amount listed in the table below based on the taxpayer's filing status:

37 <b>Filing Status</b>	38 <b>Standard Deduction</b>
39 Married, filing jointly	\$15,000
40 Head of Household	12,000
41 Single	7,500
42 Married, filing separately	7,500.

- 43 (2) Itemized deduction amount. – An amount equal to the sum of the items listed  
 44 in this subdivision. The amounts allowed under this subdivision are not  
 45 subject to the overall limitation on itemized deductions under section 68 of  
 46 the Code:

- 47 a. The amount allowed as a deduction for charitable contributions under  
 48 section 170 of the Code for that taxable year. For taxable year 2014,  
 49 a taxpayer who elected to take the income exclusion under section  
 50 408(d)(8) of the Code for a qualified charitable distribution from an  
 51 individual retirement plan by a person who has attained the age of 70  
1/2 may deduct the amount that would have been allowed as a

1 charitable deduction under section 170 of the Code had the taxpayer  
2 not elected to take the income exclusion.

- 3 b. The amount allowed as a deduction for interest paid or accrued  
4 during the taxable year under section 163(h) of the Code with respect  
5 to any qualified residence plus the amount claimed by the taxpayer as  
6 a deduction for property taxes paid or accrued on real estate under  
7 section 164 of the Code for that taxable year. For taxable year 2014,  
8 the amount allowed as a deduction for interest paid or accrued during  
9 the taxable year under section 163(h) of the Code with respect to any  
10 qualified residence shall not include the amount for mortgage  
11 insurance premiums treated as qualified residence interest. The  
12 amount allowed under this sub-subdivision may not exceed twenty  
13 thousand dollars (\$20,000). For spouses filing as married filing  
14 separately or married filing jointly, the total mortgage interest and  
15 real estate taxes claimed by both spouses combined may not exceed  
16 twenty thousand dollars (\$20,000). For spouses filing as married  
17 filing separately with a joint obligation for mortgage interest and real  
18 estate taxes, the deduction for these items is allowable to the spouse  
19 who actually paid them. If the amount of the mortgage interest and  
20 real estate taxes paid by both spouses exceeds twenty thousand  
21 dollars (\$20,000), these deductions must be prorated based on the  
22 percentage paid by each spouse. For joint obligations paid from joint  
23 accounts, the proration is based on the income reported by each  
24 spouse for that taxable year.

25 ...  
26 (d) Decoupling Adjustments. – In calculating North Carolina taxable income, a  
27 taxpayer must add to the taxpayer's adjusted gross income any of the following items that are  
28 not included in the taxpayer's adjusted gross income:

- 29 (1) For taxable year 2014, the amount excluded from the taxpayer's gross  
30 income for the discharge of qualified principal residence indebtedness under  
31 section 108 of the Code. The purpose of this subdivision is to decouple from  
32 the extension of the income exclusion under section 102 of the Tax Increase  
33 Prevention Act of 2014.  
34 (2) For taxable year 2014, the amount of the taxpayer's deduction for qualified  
35 tuition and related expenses under section 222 of the Code. The purpose of  
36 this subdivision is to decouple from the extension of the federal  
37 above-the-line deduction under section 107 of the Tax Increase Prevention  
38 Act of 2014.  
39 (3) For taxable year 2014, the amount excluded from the taxpayer's gross  
40 income for a qualified charitable distribution from an individual retirement  
41 plan by a person who has attained age 70 1/2 under section 408(d)(8) of the  
42 Code. The purpose of this subdivision is to decouple from the extension of  
43 the income exclusion under section 108 of the Tax Increase Prevention Act  
44 of 2014.

45 ~~(d)~~(e) S Corporations. – Each shareholder's pro rata share of an S Corporation's income is  
46 subject to the adjustments provided in this section and in G.S. 105-153.6."

47 **SECTION 1.4.** This Part is effective when the act becomes law. Notwithstanding  
48 Section 1.1 of this act, any amendments to the Internal Revenue Code enacted after December  
49 31, 2013, that increase North Carolina taxable income for the 2014 taxable year are effective  
50 for taxable years beginning on or after January 1, 2015.  
51

**PART II. MOTOR FUEL TAX CHANGES**

**SECTION 2.1.** Effective April 1, 2015, and notwithstanding G.S. 105-449.80, the motor fuel excise tax rate is thirty-six cents (36¢) a gallon.

**SECTION 2.2.(a)** G.S. 105-449.80 reads as rewritten:

**"§ 105-449.80. Tax rate.**

(a) ~~Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater.~~

~~The two base periods are six month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six month period that begins the following July 1.~~For the period that begins on January 1, 2016, and ends on June 30, 2016, the motor fuel excise tax rate is a flat rate of thirty-five cents (35¢) per gallon. For the period that begins on July 1, 2016, and ends on December 31, 2016, the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon. For the calendar years beginning on January 1, 2017, the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon, multiplied by a percentage. For calendar years beginning on or after January 1, 2018, the motor fuel excise tax rate is the amount for the preceding calendar year, multiplied by a percentage. The percentage is one hundred percent (100%) plus or minus the sum of the following:

(1) The percentage change in population for the applicable calendar year, as estimated under G.S. 143C-2-2, multiplied by seventy-five percent (75%).

(2) The annual percentage change in the Consumer Price Index for All Urban Consumers, multiplied by twenty-five percent (25%). For purposes of this subdivision, "Consumer Price Index for All Urban Consumers" means the United States city average for energy index contained in the detailed report released in the October prior to the applicable calendar year by the Bureau of Labor Statistics of the United States Department of Labor.

~~(b) Wholesale Price. – The Secretary must determine the average wholesale price of motor fuel for each base period. To do this, the Secretary must use information on refiner and gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel for resale, published by the United States Department of Energy in the "Monthly Energy Review", or equivalent data.~~

~~The Secretary must compute the average sales price of finished motor gasoline for the base period, compute the average sales price for No. 2 diesel fuel for the base period, and then compute a weighted average of the results of the first two computations based on the proportion of tax collected on each under this Article for the base period. The Secretary must then convert the weighted average price to a cents per gallon rate and round the rate to the nearest one-tenth of a cent (1/10¢). If the converted cents per gallon rate is exactly between two tenths of a cent (2/10¢) the Secretary must round the rate up to the higher of the two.~~

~~(c) Notification. – The Secretary must notify affected taxpayers of the tax rate to be in effect for each six month period calendar year beginning January 1 and July 1."~~

**SECTION 2.2.(b)** G.S. 105-449.107(c) reads as rewritten:

"(c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the amount of State sales and use tax to be deducted under this section from a motor fuel excise tax refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this section from a motor fuel excise tax refund. ~~The sales price and the cost price of motor fuel to~~

1 be used in determining the amount to deduct is the average of the wholesale prices used under  
 2 G.S. 105-449.80 to determine the excise tax rates in effect for the two six-month periods of the  
 3 year for which the refund is claimed."

4 **SECTION 2.2.(c)** G.S. 150B-2(8a) reads as rewritten:

5 "(8a) "Rule" means any agency regulation, standard, or statement of general  
 6 applicability that implements or interprets an enactment of the General  
 7 Assembly or Congress or a regulation adopted by a federal agency or that  
 8 describes the procedure or practice requirements of an agency. The term  
 9 includes the establishment of a fee and the amendment or repeal of a prior  
 10 rule. The term does not include the following:

11 ...

12 j. Establishment of the interest rate that applies to tax assessments  
 13 under ~~G.S. 105-241.21~~ and the variable component of the excise tax  
 14 on motor fuel under ~~G.S. 105-449.80~~. G.S. 105-241.21.

15 ...."

16 **SECTION 2.3.** G.S. 105-449.107(c) reads as rewritten:

17 "(c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the  
 18 amount of State sales and use tax to be deducted under this section from a motor fuel excise tax  
 19 refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First  
 20 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this  
 21 section from a motor fuel excise tax refund. The sales price and the cost price of motor fuel to  
 22 be used in determining the amount to deduct is the average of the wholesale prices used under  
 23 G.S. 105-449.80 to determine the excise tax ~~rates~~ rate in effect for the ~~two six-month periods of~~  
 24 ~~the calendar~~ year for which the refund is claimed."

25 **SECTION 2.4.(a)** Section 4.1 of S.L. 2014-100 reads as rewritten:

26 **"SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance  
 27 and operation of the Department of Transportation and for other purposes as enumerated are  
 28 adjusted for the fiscal year ending June 30, 2015, according to the following schedule.  
 29 Amounts set out in parentheses are reductions from Highway Trust Fund Appropriations for the  
 30 2014-2015 fiscal year.

31  
 32 **Current Operations – Highway Trust Fund**

**2014-2015**

33		
34	Program Administration	(\$11,000,000)
35	Aid to Municipalities	0
36	Intrastate	0
37	Secondary Roads	0
38	Urban Loops	0
39	Mobility Fund	0
40	Turnpike Authority	0
41	Transfer to General Fund	0
42	Transfer to Highway Fund	0
43	Debt Service	0
44	Strategic Prioritization Funding Plan for Transportation Investments	<del>67,993,140</del> <u>64,643,140</u>

45  
 46 **Total Highway Trust Fund Appropriations**

**\$ ~~1,162,393,140~~1,159,043,140"**

47 **SECTION 2.4.(b)** Section 4.2 of S.L. 2014-100 reads as rewritten:

48 **"SECTION 4.2.** Section 4.2 of S.L. 2013-360 is repealed. The Highway Trust Fund  
 49 availability used in developing the 2014-2015 fiscal year budget is shown below:

50  
 51 **Highway Trust Fund Availability Statement**

**2014-2015**

1		
2	Unreserved Fund Balance	\$ 0
3	Estimated Revenue	1,162,370,000 <u>1,159,020,000</u>
4	Adjustment to Revenue Availability:	
5	Motor Fuel Tax Refund Repeal (Taxi Cabs)	23,140
6		
7	<b>Total Highway Trust Fund Availability</b>	<b>\$ <del>1,162,393,140</del> <u>1,159,043,140</u></b>
8		
9	Unappropriated Balance	\$ 0"
10	<b>SECTION 2.4.(c)</b> Section 3.1 of S.L. 2014-100 reads as rewritten:	
11	"SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and	
12	operation of the Department of Transportation and for other purposes as enumerated are	
13	adjusted for the fiscal year ending June 30, 2015, according to the following schedule.	
14	Amounts set out in parentheses are reductions from Highway Fund Appropriations for the	
15	2014-2015 fiscal year.	
16		
17	<b>Current Operations – Highway Fund</b>	<b>2014-2015</b>
18		
19	Department of Transportation	
20	Administration	\$ 1,949,344
21		
22	Division of Highways	
23	Administration	0
24	Construction	0
25	Maintenance	53,407,586
26	Planning and Research	0
27	OSHA Program	(7,307)
28		
29	Ferry Operations	(1,542,317)
30		
31	State Aid to Municipalities	9,453,990
32		
33	Intermodal Divisions	
34	Public Transportation	0
35	Aviation	(800,000)
36	Rail	(960,325)
37	Bicycle and Pedestrian	(30,043)
38		
39	Governor's Highway Safety	(5,699)
40		
41	Division of Motor Vehicles	(988,255)
42		
43	Other State Agencies, Reserves, Transfers	7,354,812
44		
45	Capital Improvements	0
46		
47	<u>Reductions Made Pursuant to Senate Bill 20:</u>	
48	<u>"IRC Update/Motor Fuel Tax Changes," 2015 Regular Session</u>	<u>(10,050,000)</u>
49		
50	<b>Total Highway Fund Appropriations</b>	<b><del>\$1,984,142,286</del> <u>\$1,974,092,286</u>"</b>
51	<b>SECTION 2.4.(d)</b> Section 3.2 of S.L. 2014-100 reads as rewritten:	

"SECTION 3.2. Section 3.2 of S.L. 2013-360 is repealed. The Highway Fund availability used in adjusting the 2014-2015 fiscal year budget is shown below:

**Highway Fund Availability Statement**

**2014-2015**

Unreserved Fund Balance	\$	12,000,000
Estimated Revenue		1,973,750,000
Adjustment to Revenue Availability:		
Motor Fuel Tax (Shallow Draft Navigation Channel Dredging Fund)		(1,677,134)
Motor Fuel Tax Refund Repeal (Taxi Cabs)		69,420
<u>Reductions Made Pursuant to Senate Bill 20:</u>		
"IRC Update/Motor Fuel Tax Changes," 2015 Regular Session		(10,050,000)
<b>Revised Total Highway Fund Availability</b>		<b><u>\$1,984,142,286</u></b>

**Unappropriated Balance**

**\$ 0"**

SECTION 2.4.(e) For the 2014-2015 fiscal year, appropriations to each certified fund code within the Highway Fund are hereby reduced by one and two-fifths percent (1 2/5%), which shall amount to a total reduction of five million nine hundred eight thousand one hundred twenty-one dollars (\$5,908,121). In making the reductions required by this subsection, the following fund codes shall not be reduced:

- (1) 84210-0852
- (2) 84210-0862
- (3) 84210-0864
- (4) 84210-0865
- (5) 84210-0867
- (6) 84210-0868
- (7) 84210-0871
- (8) 84210-0873
- (9) 84210-0877
- (10) 84210-0878
- (11) 84210-0881
- (12) 84210-0882
- (13) 84210-0885
- (14) 84210-0889
- (15) 84210-0892
- (16) 84210-0893
- (17) 84210-0933
- (18) 84210-0934
- (19) 84210-0935
- (20) 84210-0937
- (21) 84210-1165
- (22) 84210-1260
- (23) 84210-7040
- (24) 84210-7615
- (25) 84210-7818
- (26) 84210-7821
- (27) 84210-7822
- (28) 84210-7824
- (29) 84210-7825
- (30) 84210-7826
- (31) 84210-7827

- 1 (32) 84210-7828
- 2 (33) 84210-7834
- 3 (34) 84210-7836
- 4 (35) 84210-7839
- 5 (36) 84210-7841

6 **SECTION 2.4.(f)** For the 2014-2015 fiscal year, appropriations to each of the  
7 following certified fund codes within the Highway Fund are hereby reduced by one-half  
8 percent (1/2%), which shall amount to a total reduction of two million three hundred  
9 seventy-nine thousand nine hundred ninety-four dollars (\$2,379,994):

- 10 (1) 84210-7821
- 11 (2) 84210-7822
- 12 (3) 84210-7841

13 **SECTION 2.4.(g)** For the 2014-2015 fiscal year, and notwithstanding any  
14 provision of law to the contrary, the Director of the Budget and the Secretary of Revenue shall  
15 make the following reductions:

- 16 (1) One million forty-five thousand two hundred dollars (\$1,045,200) to the  
17 total amount of funds appropriated pursuant to G.S. 136-41.1.
- 18 (2) Sixteen thousand seven hundred fifty dollars (\$16,750) to the total amount of  
19 funds credited to the Wildlife Resources Fund pursuant to G.S. 105-449.126.
- 20 (3) Sixteen thousand seven hundred fifty dollars (\$16,750) to the total amount of  
21 funds credited to the Shallow Draft Navigation Channel and Lake Dredging  
22 Fund pursuant to G.S. 105-449.126.

23 **SECTION 2.4.(h)** The Secretary of the Department of Transportation shall  
24 eliminate a minimum of 40 vacant positions within the Department of Transportation to  
25 achieve a total reduction of six hundred eighty-three thousand one hundred eighty-five dollars  
26 (\$683,185). The Secretary of the Department of Transportation may use lapsed salaries to meet  
27 the reduction required under this subsection.

28 **SECTION 2.4.(i)** Notwithstanding any provision of law to the contrary, the total  
29 amount of funds generated by the reductions in this act shall be used to support the  
30 maintenance and operation of the Department of Transportation and for other purposes as  
31 enumerated for the Department of Transportation in S.L. 2014-100. To the extent any of the  
32 funds generated by the reductions in this act are deemed unappropriated, these funds are hereby  
33 appropriated. The Director of the Budget shall modify the certified budget to reflect the  
34 reductions to appropriations made in this act.

35 **SECTION 2.5.** Sections 2.2 and 2.3 of this Part become effective January 1, 2016.  
36 Except as otherwise provided, this act is effective when it becomes law. Section 2.1 of this act  
37 expires January 1, 2016.

### 38 **PART III. EFFECTIVE DATE**

39 **SECTION 3.1.** Except as otherwise provided, this act is effective when it becomes  
40 law.  
41