

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**SENATE BILL 605
PROPOSED COMMITTEE SUBSTITUTE S605-PCS15261-RBxr-37**

Short Title: Various Changes to the Revenue Laws.

(Public)

Sponsors:

Referred to:

March 30, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS.
3 The General Assembly of North Carolina enacts:

PART I. BUSINESS TAX CHANGES

SECTION 1.1.(a) G.S. 105-121.1 is repealed.

SECTION 1.1.(b) This section is effective for taxes due on or after April 1, 2016.

SECTION 1.2. G.S. 105-129.26(a) reads as rewritten:

"(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits provided in this Article and in ~~Article 5~~ Article 5F of this Chapter for major recycling facilities if it meets all of the following conditions:

...."

SECTION 1.3.(a) G.S. 105-130.4(s) reads as rewritten:

"(s) All apportionable income of an air transportation corporation or a water transportation corporation shall be apportioned by a fraction, the numerator of which is the corporation's revenue ton miles in this State and the denominator of which is the corporation's revenue ton miles everywhere. A qualified air freight forwarder shall use the revenue ton mile fraction of its affiliated airline. The following definitions apply in this subsection:

(1) Air transportation corporation. – An airline that carries passengers or freight of any kind, or both, or a qualified air freight forwarder.

(2) Qualified air freight forwarder. – A company that is an affiliate of an airline and whose air freight forwarding business is primarily carried on with the affiliated airline.

(3) ~~The term "revenue Revenue ton mile" means one mile. – One ton of passengers, freight, mail, or other cargo carried one mile. In making this computation, a passenger is considered to weigh two hundred pounds."~~

SECTION 1.3.(b) This section is effective for taxable years beginning on or after January 1, 2015.

SECTION 1.4.(a) G.S. 105-130.5(b)(6), (7), (12), (13), (15), (18), (19), and (22) and G.S. 105-130.5(c)(4) and (5) are repealed.

SECTION 1.4.(b) G.S. 105-130.5(b)(11) reads as rewritten:

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

...

(11) If a deduction for an ordinary and necessary business expense was required to be reduced or was not allowed under the Code because the corporation



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1 claimed a federal tax credit against its federal income tax liability for the
2 income year in lieu of a deduction, the amount by which the deduction was
3 reduced and the amount of the deduction that was disallowed.—This
4 deduction is allowed only to the extent that a similar credit is not allowed by
5 this Chapter for the amount."

6 **SECTION 1.4.(c)** G.S. 105-122(b)(4), (5), (6), and (8) and G.S. 105-122(d1) are
7 repealed.

8 **SECTION 1.4.(d)** G.S. 105-122(d) reads as rewritten:

9 "(d) Tax Base and Tax Rate. — After determining the proportion of its total capital stock,
10 surplus and undivided profits as set out in subsection (c1) of this section, which amount shall
11 not be less than fifty-five percent (55%) of the appraised value as determined for ad valorem
12 taxation of all the real and tangible personal property in this State of each corporation nor less
13 than its total actual investment in tangible property in this State, every corporation taxed under
14 this section shall annually pay to the Secretary of Revenue, at the time the return is due, a
15 franchise or privilege tax at the rate of one dollar and fifty cents (\$1.50) per one thousand
16 dollars (\$1,000) of the total amount of capital stock, surplus and undivided profits as provided
17 in this section. The tax imposed in this section shall not be less than thirty-five dollars (\$35.00)
18 and is for the privilege of carrying on, doing business, and/or the continuance of articles of
19 incorporation or domestication of each corporation in this State. Appraised value of tangible
20 property including real estate is the ad valorem valuation for the calendar year next preceding
21 the due date of the franchise tax return. The term "total actual investment in tangible property"
22 as used in this section means the total original purchase price or consideration to the reporting
23 taxpayer of its tangible properties, including real estate, in this State plus additions and
24 improvements thereto less reserve for depreciation as permitted for income tax purposes, and
25 also less any indebtedness incurred and existing by virtue of the purchase of any real estate and
26 any permanent improvements made thereon. In computing "total actual investment in tangible
27 personal property" a corporation may deduct reserves for the entire cost of any air cleaning
28 device or sewage or waste treatment plant, including waste lagoons, and pollution abatement
29 equipment purchased or constructed and installed which reduces the amount of air or water
30 pollution resulting from the emission of air contaminants or the discharge of sewage and
31 industrial wastes or other polluting materials or substances into the outdoor atmosphere or into
32 streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall
33 furnish to the Secretary a certificate from the Department of Environment and Natural
34 Resources or from a local air pollution control program for air cleaning devices located in an
35 area where the Environmental Management Commission has certified a local air pollution
36 control program pursuant to G.S. 143-215.112 certifying that said Department or local air
37 pollution control program has found as a fact that the air cleaning device, waste treatment plant
38 or pollution abatement equipment purchased or constructed and installed as above described
39 has actually been constructed and installed and that the device, plant or equipment complies
40 with the requirements of the Environmental Management Commission or local air pollution
41 control program with respect to the devices, plants or equipment, that the device, plant or
42 equipment is being effectively operated in accordance with the terms and conditions set forth in
43 the permit, certificate of approval, or other document of approval issued by the Environmental
44 Management Commission or local air pollution control program and that the primary purpose is
45 to reduce air or water pollution resulting from the emission of air contaminants or the discharge
46 of sewage and waste and not merely incidental to other purposes and functions. The cost of
47 constructing facilities of any private or public utility built for the purpose of providing sewer
48 service to residential and outlying areas is treated as deductible for the purposes of this section;
49 the deductible liability allowed by this section applies only with respect to pollution abatement
50 plants or equipment constructed or installed on or after January 1, 1955 purposes."

1 **SECTION 1.4.(e)** Subsections (a) and (b) of this section are effective for taxable
2 years beginning on or after January 1, 2016. Subsections (c) and (d) of this section are effective
3 for taxable years beginning on or after January 1, 2017. The remainder of this section is
4 effective when this act becomes law.

5
6 **PART II. PERSONAL TAX CHANGES**

7 **SECTION 2.1.(a)** G.S. 105-153.5(a) reads as rewritten:

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

13 ...
14 (2) Itemized deduction amount. – An amount equal to the sum of the items listed
15 in this subdivision. The amounts allowed under this subdivision are not
16 subject to the overall limitation on itemized deductions under section 68 of
17 the Code:

18 ...

19 c. The amount claimed under section 67(b)(9) of the Code related to
20 when a taxpayer restores a substantial amount held under claim of
21 right, less (i) the limitation provided under section 67(a) of the Code
22 minus (ii) all other items deductible under section 67(b) of the Code,
23 not to exceed the limitation provided under section 67(a) of the
24 Code."

25 **SECTION 2.1.(b)** G.S. 105-153.5(b) is amended by adding a new subdivision to
26 read:

27 "(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may
28 deduct from the taxpayer's adjusted gross income any of the following items that are included
29 in the taxpayer's adjusted gross income:

30 ...

31 (10) The amount added to federal taxable income under section 108(i)(1) of the
32 Code. This deduction applies to taxable years beginning on or after January
33 1, 2014."

34 **SECTION 2.1.(c)** This section is effective for taxable years beginning on or after
35 January 1, 2014.

36 **SECTION 2.2.(a)** G.S. 105-153.5(c) is amended by adding a new subdivision to
37 read:

38 "(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to
39 the taxpayer's adjusted gross income any of the following items that are not included in the
40 taxpayer's adjusted gross income:

41 ...

42 (6) The amount of net operating loss carried to and deducted on the federal
43 return but not absorbed in that year and carried forward to a subsequent
44 year."

45 **SECTION 2.2.(b)** This section is effective for taxable years beginning on or after
46 January 1, 2015.

47 **SECTION 2.3.** G.S. 105-163.1 reads as rewritten:

48 "**§ 105-163.1. Definitions.**

49 The following definitions apply in this Article:

50 ...

51 (6) Individual. – Defined in ~~G.S. 105-134.1~~ G.S. 105-153.3.

- 1 ...
 2 (13) Wages. – The term has the same meaning as in section 3401 of the Code
 3 except it does not include ~~the either of the following:~~
 4 a. ~~The amount of severance wages paid to an employee during the~~
 5 ~~taxable year that is exempt from State income tax for that taxable~~
 6 ~~year under G.S. 105-134.6(b)(11).~~
 7 b. ~~The amount an employer pays an employee as reimbursement for~~
 8 ~~ordinary and necessary expenses incurred by the employee on behalf~~
 9 ~~of the employer and in the furtherance of the business of the~~
 10 ~~employer.~~

11"

12 **SECTION 2.4.(a)** G.S. 105-269.7 is repealed.

13 **SECTION 2.4.(b)** This section is effective for taxable years beginning on or after
 14 January 1, 2015.

15
 16 **PART III. SALES TAX CHANGES**

17 **SECTION 3.1.** Section 2.4 of S.L. 2014-66 reads as rewritten:

18 "**SECTION 2.4.** ~~Sections 2.1~~Section 2.1 of this act becomes effective July 1, 2013.
 19 ~~Sections 2.2~~ through 2.4 of this act become effective July 1, 2014. The remainder of this act is
 20 effective when it becomes law."

21 **SECTION 3.2.(a)** G.S. 105-164.3 reads as rewritten:

22 "**§ 105-164.3. Definitions.**

23 The following definitions apply in this Article:

- 24 ...
 25 (3) ~~Clothing. – All human wearing apparel suitable for general use including~~
 26 ~~coats, jackets, hats, hosiery, scarves, and shoes.~~
 27 (4) ~~Clothing accessories or equipment. – Incidental items worn on the person or~~
 28 ~~in conjunction with clothing including jewelry, cosmetics, eyewear, wallets,~~
 29 ~~and watches.~~
 30 ...
 31 (8g) ~~Energy Star qualified product. – A product that meets the energy efficient~~
 32 ~~guidelines set by the United States Environmental Protection Agency and the~~
 33 ~~United States Department of Energy and is authorized to carry the Energy~~
 34 ~~Star label.~~
 35 ...
 36 (25a) Operator. – A person provided with the lease or rental of tangible personal
 37 property or a motor vehicle to operate, drive, or maneuver the tangible
 38 personal property or motor vehicle and whose presence, skill, knowledge,
 39 and expertise are necessary to bring about a desired or appropriate effect.
 40 The person must do more than calibrate, test, analyze, research, probe, or
 41 monitor the tangible personal property or motor vehicle.
 42 (25a)(25b) Other direct mail. – Any direct mail that is not advertising and
 43 promotional mail regardless of whether advertising and promotional direct
 44 mail is included in the same mailing.
 45 (25b)(25c) Over-the-counter drug. – A drug that contains a label that identifies the
 46 product as a drug as required by 21 C.F.R. § 201.66. The label includes
 47 either of the following:
 48 a. A "Drug Facts" panel.
 49 b. A statement of its active ingredients with a list of those ingredients
 50 contained in the compound, substance, or preparation.
 51 ...

1 (28) Prepared food. – Food that meets at least one of the conditions of this
 2 subdivision. Prepared food does not include food the retailer sliced,
 3 repackaged, or pasteurized but did not heat, mix, or sell with eating utensils.

4 ...

5 c. It is sold with eating utensils provided by the retailer, such as plates,
 6 knives, forks, spoons, glasses, cups, napkins, and straws. A plate
 7 does not include a container or packaging used to transport the food.

8 ...
 9 ~~(37b) School instructional material. — Written material commonly used by a~~
 10 ~~student in a course of study as a reference and to learn the subject being~~
 11 ~~taught. The following is an all-inclusive list:~~

12 a. ~~Reference books.~~

13 b. ~~Reference maps and globes.~~

14 c. ~~Textbooks.~~

15 d. ~~Workbooks.~~

16 ~~(37d) School supply. — An item that is commonly used by a student in the course~~
 17 ~~of study and is considered a "school supply" or "school art supply" under the~~
 18 ~~Streamlined Agreement.~~

19 ...
 20 ~~(42) Sport or recreational equipment. — Items designed for human use and worn~~
 21 ~~in conjunction with an athletic or recreational activity that are not suitable~~
 22 ~~for general use including ballet shoes, cleated athletic shoes, shin guards,~~
 23 ~~and ski boots.~~

24 ...
 25 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as
 26 amended as of ~~October 30, 2013~~ May 13, 2015.

27"

28 **SECTION 3.2.(b)** G.S. 105-164.3 reads as rewritten:

29 **"§ 105-164.3. Definitions.**

30 The following definitions apply in this Article:

31 ...

32 (43) State agency. – A unit of the executive, legislative, or judicial branch of
 33 State government, such as a department, a commission, a board, a council, or
 34 The University of North Carolina. The term does not include a local board of
 35 education, education, an occupational licensing board as defined in
 36 G.S. 93B-1, or any State governmental entity listed in G.S. 105-164.14(c) or
 37 G.S. 105-521.2.

38 (44) Storage. – The keeping or retention in this State for any purpose, except sale
 39 in the regular course of business, of tangible personal property or digital
 40 property for any period of time purchased from a person in business. ~~retailer.~~
 41 ~~The term does not include a purchaser's storage of tangible personal property~~
 42 ~~or digital property in any of the following circumstances:~~

43 a. ~~When the purchaser is able to document that at the time the purchaser~~
 44 ~~acquires the property the property is designated for the purchaser's~~
 45 ~~use outside the State and the purchaser subsequently takes it outside~~
 46 ~~the State and uses it solely outside the State.~~

47 b. ~~When the purchaser acquires the property to process, fabricate,~~
 48 ~~manufacture, or otherwise incorporate it into or attach it to other~~
 49 ~~property for the purchaser's use outside the State and, after~~
 50 ~~incorporating or attaching the purchased property, the purchaser~~

1 ~~subsequently takes the other property outside the State and uses it~~
2 ~~solely outside the State.~~

3 "

4 **SECTION 3.2.(c)** Subsection (b) of this section becomes effective January 1, 2016.
5 The remainder of this section is effective when this act becomes law.

6 **SECTION 3.3.** G.S. 105-164.4B(e) reads as rewritten:

7 "(e) Accommodations. – The rental of an accommodation, as defined in
8 ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, is sourced to the location of the accommodation."

9 **SECTION 3.4.** G.S. 105-164.4G(b) reads as rewritten:

10 "(b) Tax. – The gross receipts derived from an admission charge to an entertainment
11 activity are taxed at the general rate set in G.S. 105-164.4. The tax is due and payable by the
12 retailer in accordance with G.S. 105-164.16. For purposes of the tax imposed by this section,
13 the retailer is the applicable person listed below:

14 (1) The operator of the venue where the entertainment activity occurs, unless the
15 retailer and the facilitator have a contract between them allowing for dual
16 remittance, as provided in subsection (d) of this section.

17 (2) The person that provides the entertainment and that receives admission
18 charges directly from a purchaser.

19 (3) A person other than a person listed in subdivision (1) or (2) of this
20 subsection that receives gross receipts derived from an admission charge
21 sold at retail."

22 **SECTION 3.5.** G.S. 105-164.4H(b) reads as rewritten:

23 "(b) Retailer-Contractor. – This section applies to a retailer-contractor when the
24 retailer-contractor acts as a real property contractor. A retailer-contractor that purchases
25 tangible personal property to be installed or ~~affixed-applied~~ to real property may purchase items
26 exempt from tax under a certificate of exemption pursuant to G.S. 105-164.28 provided the
27 retailer-contractor also purchases inventory items from the seller for resale. When the tangible
28 personal property is withdrawn from inventory and installed or ~~affixed-applied~~ to real property,
29 use tax must be accrued and paid on the retailer-contractor's purchase price of the tangible
30 personal property. Tangible personal property that the retailer-contractor withdraws from
31 inventory for use that does not become part of real property is also subject to the tax imposed
32 by this Article.

33 If a retailer-contractor subcontracts any part of the real property contract, tax is payable by
34 the subcontractor on the subcontractor's purchase of the tangible personal property that is
35 installed or ~~affixed-applied~~ to real property in fulfilling the contract. The retailer-contractor, the
36 subcontractor, and the owner of the real property are jointly and severally liable for the tax. The
37 liability of a retailer-contractor, a subcontractor, or an owner who did not purchase the property
38 is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

39 **SECTION 3.6.** G.S. 105-164.4I(a)(3) reads as rewritten:

40 "(a) Tax. – The sales price of or the gross receipts derived from a service contract or the
41 renewal of a service contract sold at retail is subject to the general rate of tax set in
42 G.S. 105-164.4 and is sourced in accordance with the sourcing principles in G.S. 105-164.4B.
43 The retailer of a service contract is required to collect the tax due at the time of the retail sale of
44 the contract and is liable for payment of the tax. The tax is due and payable in accordance with
45 G.S. 105-164.16.

46 The retailer of a service contract is the applicable person listed below:

47 ...

48 (3) When a service contract is sold at retail to a purchaser by a facilitator on
49 behalf of the obligor under the contract and there is an agreement between
50 the facilitator and the obligor that states the obligor will be liable for the
51 payment of the tax, the obligor is the retailer. The facilitator must send the

1 retailer the tax due on the sales price of or gross receipts derived from the
 2 service contract no later than 10 days after the end of each calendar month.
 3 The retailer must report for the prior reporting period all tax received from
 4 the facilitator on or after the first day of the month but before the tenth day
 5 of the month. A facilitator that does not send the retailer the tax due on the
 6 sales price or gross receipts is liable for the amount of tax the facilitator fails
 7 to send. A facilitator is not liable for tax sent to a retailer but not remitted by
 8 the retailer to the Secretary. Tax payments received by a retailer from a
 9 facilitator are held in trust by the retailer for remittance to the Secretary. A
 10 retailer that receives a tax payment from a facilitator must remit the amount
 11 received to the Secretary. A retailer is not liable for tax due but not received
 12 from a facilitator. The requirements imposed by this subdivision on a retailer
 13 and a facilitator are considered terms of the agreement between the retailer
 14 and the facilitator."

15 **SECTION 3.7.(a)** G.S. 105-164.13 is amended by adding a new subdivision to
 16 read:

17 **"§ 105-164.13. Retail sales and use tax.**

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

- 21 ...
 22 (65) A transmission, engine, or rear-end gears leased or rented by a professional
 23 motorsports racing team or a related member of a team for use in
 24 competition in a sanctioned race series. This subdivision expires January 1,
 25 2020."

26 **SECTION 3.7.(b)** G.S. 105-164.4I(b)(3) reads as rewritten:

27 "(b) Exemptions. – The tax imposed by this section does not apply to the sales price of
 28 or the gross receipts derived from a service contract applicable to any of the following items:

- 29 ...
 30 (3) An item purchased by a professional motorsports racing team or a related
 31 member of a team for which the team may receive a sales tax refund under
 32 G.S. 105-164.14A(a)(5)."

33 **SECTION 3.7.(c)** G.S. 105-164.14A(a) reads as rewritten:

34 "(a) Refund. – The following taxpayers are allowed an annual refund of sales and use
 35 taxes paid under this Article:

- 36 ...
 37 (5) Professional motorsports team. – A professional motorsports racing team or
 38 a related member of a team is allowed a refund ~~of fifty percent (50%) equal~~
 39 to the applicable percentage of the sales and use tax paid by it in this State
 40 on tangible personal property, other than tires or accessories, that comprises
 41 any part of a professional motorsports vehicle. For purposes of this
 42 subdivision, "motorsports accessories" includes instrumentation, telemetry,
 43 consumables, and paint. This subdivision is repealed for purchases made on
 44 or after ~~January 1, 2016.~~ January 1, 2020. The applicable percentage varies
 45 based upon the calendar year in which the item is purchased. The applicable
 46 percentage is as follows:

<u>Year of Purchase</u>	<u>Applicable Percentage</u>
<u>2016</u>	<u>50%</u>
<u>2017</u>	<u>37.5%</u>
<u>2018</u>	<u>25%</u>
<u>2019</u>	<u>12.5%.</u>

...."

SECTION 3.7.(d) Subsection (b) of this section becomes effective January 1, 2014, and applies to service contracts purchased on or after that date. The remainder of this section is effective when this act becomes law.

SECTION 3.8.(a) G.S. 105-164.4D(b) reads as rewritten:

"(b) Determining Threshold. – A retailer of a bundled transaction subject to this section may use either the retailer's ~~cost~~purchase price or the retailer's sales price to determine if the transaction meets the fifty percent (50%) test or the ten percent (10%) test set out in subdivisions (a)(1) and (a)(3) of this section. A retailer may not use a combination of ~~cost purchase price~~ and sales price to make this determination. If a bundled transaction subject to subdivision (a)(3) of this section includes a service contract, the retailer must use the full term of the contract in determining whether the transaction meets the threshold set in the subdivision."

SECTION 3.8.(b) G.S. 105-468 reads as rewritten:

"§ 105-468. Scope of use tax.

The use tax authorized by this Article is a tax at the rate of one percent (1%) of the ~~cost~~purchase price of each item or article of tangible personal property that is not sold in the taxing county but is used, consumed, or stored for use or consumption in the taxing county. The tax applies to the same items that are subject to tax under G.S. 105-467. The collection and administration of this tax shall be in accordance with Article 5 of Chapter 105 of the General Statutes.

Where a local sales or use tax was due and has been paid with respect to tangible personal property by the purchaser in another taxing county within the State, or where a local sales or use tax was due and has been paid in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this Article, the tax paid may be credited against the tax imposed under this section by a taxing county upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county. The Secretary may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax levied under this Article is not subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this Article."

SECTION 3.8.(c) G.S. 105-471 reads as rewritten:

"§ 105-471. Retailer to collect sales tax.

Every retailer whose place of business is in a taxing county shall on and after the levy of the tax herein authorized collect the one percent (1%) local sales tax provided by this Article.

The tax to be collected under this Article shall be collected as a part of the sales price of the item of tangible personal property sold, the ~~cost~~purchase price of the item of tangible personal property used, or as a part of the charge for the rendering of any services, renting or leasing of tangible personal property, or the furnishing of any accommodation taxable hereunder. The tax shall be stated and charged separately from the sales price or ~~cost~~purchase price and shall be shown separately on the retailer's sales record and shall be paid by the purchaser to the retailer as trustee for and on account of the State or county wherein the tax is imposed. It is the intent and purpose of this Article that the local sales and use tax herein authorized to be imposed and levied by a taxing county shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the retailer. The Secretary of Revenue shall design, print and furnish to all retailers in a taxing county in which he shall collect and administer the tax the necessary forms for filing returns and instructions to insure the full collection from

1 retailers, and the Secretary may adapt the present form used for the reporting and collecting of
2 the State sales and use tax to this purpose."

3 **SECTION 3.9.(a)** G.S. 105-164.12B reads as rewritten:

4 "**§ 105-164.12B. Tangible personal property sold below cost with conditional service**
5 **contract.**

6 (a) ~~Conditional Service-Contract Defined.~~ – A conditional ~~service~~-contract is a contract
7 in which all of the following conditions are met:

8 (1) A seller transfers an item of tangible personal property to a consumer on the
9 condition that the consumer enter into an agreement to purchase services on
10 an ongoing basis for a minimum period of at least six months.

11 (2) The agreement requires the consumer to pay a cancellation fee to the seller if
12 the consumer cancels the contract for services within the minimum period.

13 (3) For the item transferred, the seller charges the consumer a price that, after
14 any price reduction the seller gives the consumer, is below the purchase
15 price the seller paid for the item. The seller's purchase price is presumed to
16 be no greater than the price the seller paid, as shown on the seller's purchase
17 invoice, for the same item within 12 months before the seller entered into the
18 conditional ~~service~~-contract.

19 (b) Tax. – If a seller transfers an item of tangible personal property as part of a
20 conditional ~~service~~-contract, a sale has occurred. The sales price of the item is presumed to be
21 the retail price at which the item would sell in the absence of the conditional ~~service~~-contract.
22 Sales tax at the general rate under G.S. 105-164.4(a) is due at the time of the transfer on the
23 following:

24 (1) Any part of the presumed sales price the consumer pays at that time, if the
25 service in the contract is taxable at the combined general rate.

26 (2) The presumed sales price, if the service in the contract is not taxable at the
27 combined general rate.

28 (3) The percentage of the presumed sales price that is equal to the percentage of
29 the service in the contract that is not taxable at the combined general rate, if
30 any part of the service in the contract is not taxable at the combined general
31 rate.

32 (c)-(f) Repealed by Session Laws 2007-244, s. 3, effective October 1, 2007."

33 **SECTION 3.9.(b)** G.S. 105-467(a) is amended by adding a new subdivision to
34 read:

35 "(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax
36 at the rate of one percent (1%) of the following:

37 ...

38 (8) The presumed sales price of an item of tangible personal property under
39 G.S. 105-164.12B."

40 **SECTION 3.10.(a)** G.S. 105-164.13(34) is repealed.

41 **SECTION 3.10.(b)** G.S. 105-164.13 is amended by adding a new subdivision to
42 read:

43 "**§ 105-164.13. Retail sales and use tax.**

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

47 ...

48 (26b) Food, prepared food, soft drinks, candy, and other items of tangible personal
49 property sold not for profit for or at an event that is sponsored by an
50 elementary or secondary school when the net proceeds of the sales will be
51 given or contributed to the school or to a nonprofit charitable organization,

1 one of whose purposes is to serve as a conduit through which the net
2 proceeds will flow to the school. For purposes of this exemption, the term
3 "school" is an entity regulated under Chapter 115C of the General Statutes.

4"

5 **SECTION 3.10.(c)** This section becomes effective January 1, 2016, and applies to
6 sales made on or after that date.

7 **SECTION 3.11.** G.S. 105-164.13(49), (49a), and (59) read as rewritten:

8 "**§ 105-164.13. Retail sales and use tax.**

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

12 ...

13 (49) Installation charges when the charges are separately stated and identified as
14 such on an invoice or similar billing document given to the purchaser at the
15 time of sale.

16 (49a) Delivery charges for delivery of direct mail if the charges are separately
17 stated and identified as such on an invoice or similar billing document given
18 to the purchaser at the time of sale.

19 ...

20 (59) Interior design services provided in conjunction with the sale of tangible
21 personal ~~property~~ property when the charges are separately stated and
22 identified as such on an invoice or similar billing document given to the
23 purchaser at the time of sale."

24 **SECTION 3.12.(a)** G.S. 105-164.13 reads as rewritten:

25 "**§ 105-164.13. Retail sales and use tax.**

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

29 ...

30 (52) Items subject to sales and use tax under G.S. 105-164.4, other than
31 electricity, telecommunications service, and ancillary service as defined in
32 ~~G.S. 105-164.4, G.S. 105-164.3,~~ if all of the following conditions are met:

33 ...

34 (57) ~~Fuel and electricity~~ Fuel, electricity, and piped natural gas sold to a
35 manufacturer for use in connection with the operation of a manufacturing
36 facility. The exemption does not apply to the following:

37 a. ~~electricity~~ Electricity used at a facility at which the primary activity
38 is not manufacturing.

39 b. Fuel or piped natural gas that is not used directly in a manufacturing
40 process.

41"

42 **SECTION 3.12.(b)** This section becomes effective January 1, 2016.

43 **SECTION 3.13.(a)** G.S. 105-164.13E(c), as enacted by S.L. 2015-6, reads as
44 rewritten:

45 "(c) Contract with a Farmer. – A qualifying item listed in subdivisions (5), (8), and (9) of
46 subsection (a) of this section purchased to fulfill a contract with a person who holds a
47 qualifying farmer exemption certificate or a conditional farmer exemption certificate issued
48 under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased
49 directly by the person who holds the exemption certificate. A contractor that purchases one of
50 the items allowed an exemption under this section must provide an exemption certificate to the
51 retailer that includes the name of the ~~agricultural~~ qualifying farmer or conditional farmer

1 exemption certificate holder and the ~~agricultural~~ qualifying farmer or conditional farmer
2 exemption certificate number issued to that holder."

3 **SECTION 3.13.(b)** Section 2.13(b) of S.L. 2015-6 reads as rewritten:

4 "**SECTION 2.13.(b)** This section becomes effective July 1, 2014. A contractor who paid
5 sales and use tax on an item exempt from sales and use tax pursuant to ~~G.S. 105-164.13(e),~~
6 G.S. 105-164.13E(c), as enacted by this section, may request a refund from the retailer, and the
7 retailer may, upon issuance of the refund or credit, request a refund for the overpayment of tax
8 under G.S. 105-164.11(a)(1)."

9 **SECTION 3.14.** Notwithstanding G.S. 105-164.14A(a)(1), an interstate passenger
10 air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of one million
11 two hundred fifty thousand dollars (\$1,250,000) for the period beginning July 1, 2015, and
12 ending December 31, 2015.

13 **SECTION 3.15.(a)** G.S. 105-164.14(b) reads as rewritten:

14 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual
15 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
16 personal property and services for use in carrying on the work of the nonprofit entity. ~~Sales~~
17 Except as provided below, sales and use tax liability indirectly incurred by a nonprofit entity
18 through reimbursement to an authorized person of the entity for the purchase of tangible
19 personal property and services for use in carrying on the work of the nonprofit entity is
20 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
21 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
22 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
23 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
24 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
25 entity. The refund allowed under this subsection does not apply to purchases of electricity,
26 telecommunications service, ancillary service, piped natural gas, video programming, or a
27 prepaid meal plan. The refund allowed under this subsection does not apply to purchases of
28 prepared food or accommodation rentals for an employee or other authorized person unless the
29 purchase is made directly by the nonprofit entity. A request for a refund must be in writing and
30 must include any information and documentation required by the Secretary. A request for a
31 refund for the first six months of a calendar year is due the following October 15; a request for
32 a refund for the second six months of a calendar year is due the following April 15. The
33 aggregate annual refund amount allowed an entity under this subsection for a fiscal year may
34 not exceed thirty-one million seven hundred thousand dollars (\$31,700,000).

35 The refunds allowed under this subsection do not apply to an entity that is owned and
36 controlled by the United States or to an entity that is owned or controlled by the State and is not
37 listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual
38 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
39 out its work. The following nonprofit entities are allowed a refund under this subsection:

40"

41 **SECTION 3.15.(b)** G.S. 105-164.14(b), as amended by subsection (a) of this
42 section, reads as rewritten:

43 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual
44 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
45 personal property and services for use in carrying on the work of the nonprofit entity. ~~Except as~~
46 ~~provided below, sales and use tax liability indirectly incurred by a nonprofit entity through~~
47 ~~reimbursement to an authorized person of the entity for the purchase of tangible personal~~
48 ~~property and services for use in carrying on the work of the nonprofit entity is considered a~~
49 ~~direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity~~
50 ~~on building materials, supplies, fixtures, and equipment that become a part of or annexed to any~~
51 ~~building or structure that is owned or leased by the nonprofit entity and is being erected,~~

1 altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is
2 considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. The
3 refund allowed under this subsection does not apply to purchases of electricity,
4 telecommunications service, ancillary service, piped natural gas, video programming, or a
5 prepaid meal plan. The refund allowed under this subsection does not apply to purchases of
6 prepared food or accommodation rentals for an employee or other authorized person unless the
7 purchase is made directly by the nonprofit entity. A request for a refund must be in writing and
8 must include any information and documentation required by the Secretary. A request for a
9 refund for the first six months of a calendar year is due the following October 15; a request for
10 a refund for the second six months of a calendar year is due the following April 15. The
11 aggregate annual refund amount allowed an entity under this subsection for a fiscal year may
12 not exceed thirty-one million seven hundred thousand dollars (\$31,700,000).

13 The refunds allowed under this subsection do not apply to an entity that is owned and
14 controlled by the United States or to an entity that is owned or controlled by the State and is not
15 listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual
16 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
17 out its work. The following nonprofit entities are allowed a refund under this subsection:

18"

19 **SECTION 3.15.(c)** Subsection (b) of this section becomes effective July 1, 2016,
20 and applies to purchases made on or after that date. The remainder of this section is effective
21 when this act becomes law.

22 **SECTION 3.16.** G.S. 105-164.14A(a)(3) is repealed.

23 **SECTION 3.17.** G.S. 105-164.22 reads as rewritten:

24 **"§ 105-164.22. Record-keeping requirements, inspection authority, and effect of failure to**
25 **keep records.**

26 Retailers, wholesale merchants, and consumers must keep ~~for a period of three years~~
27 records that establish their tax liability under this Article. The Secretary or a person designated
28 by the Secretary may inspect these records at any reasonable time during the day.

29 A retailer's records must include records of the retailer's gross income, gross sales, net
30 taxable sales, and all items purchased for resale. Failure of a retailer to keep records that
31 establish that a sale is exempt under this Article subjects the retailer to liability for tax on the
32 sale.

33 A wholesale merchant's records must include a bill of sale for each customer that contains
34 the name and address of the purchaser, the date of the purchase, the item purchased, and the
35 price at which the wholesale merchant sold the item. Failure of a wholesale merchant to keep
36 these records for the sale of an item subjects the wholesale merchant to liability for tax at the
37 rate that applies to the retail sale of the item.

38 A consumer's records must include an invoice or other statement of the purchase price of an
39 item the consumer purchased from outside the State. Failure of the consumer to keep these
40 records subjects the consumer to liability for tax on the purchase price of the item, as
41 determined by the Secretary."

42 **SECTION 3.18.** G.S. 105-164.30 reads as rewritten:

43 **"§ 105-164.30. Secretary or agent may examine books, etc.**

44 For the purpose of enforcing the collection of the tax levied by this Article, the Secretary or
45 his duly authorized agent is authorized to examine at all reasonable hours during the day the
46 books, papers, records, documents or other data of all retailers or wholesale merchants bearing
47 upon the correctness of any return or for the purpose of filing a return where none has been
48 made as required by this Article, and may require the attendance of any person and take his
49 testimony with respect to any such matter, with power to administer oaths to such person or
50 persons. If any person summoned as a witness fails to obey any summons to appear before the
51 Secretary or his authorized agent, or refuses to testify or answer any material question or to

1 produce any book, record, paper, or other data when required to do so, the Secretary or his
2 authorized agent shall report the failure or refusal to the Attorney General or the district
3 solicitor, who shall thereupon institute proceedings in the superior court of the county where
4 the witness resides to compel obedience to any summons of the Secretary or his authorized
5 agent. Officers who serve summonses or subpoenas, and witnesses attending, shall receive like
6 compensation as officers and witnesses in the superior courts, to be paid from the proper
7 appropriation for the administration of this Article.

8 In the event any retailer or wholesale merchant fails or refuses to permit the Secretary or his
9 authorized agent to examine his books, papers, accounts, records, documents or other data, the
10 Secretary may require the retailer or wholesale merchant to show cause before the superior
11 court of the county in which said taxpayer resides or has its principal place of business as to
12 why the books, records, papers, ~~or documents~~ documents, or data should not be examined and
13 the superior court shall have jurisdiction to enter an order requiring the production of all
14 necessary books, records, papers, ~~or documents~~ documents, or data and to punish for contempt
15 any person who violates the order."

16 **SECTION 3.19.(a)** G.S. 105-164.42L reads as rewritten:

17 "**§ 105-164.42L. Liability relief for erroneous information or insufficient notice by**
18 **Department.**

19 (a) The Secretary may develop databases that provide information on the boundaries of
20 taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A person who
21 relies on the information provided in these databases is not liable for underpayments of tax
22 attributable to erroneous information provided by the Secretary in those ~~databases~~ databases
23 until 10 business days after the date of notification by the Secretary.

24 (b) The Secretary may develop a taxability matrix that provides information on the
25 taxability of certain ~~items~~ items or certain tax administration practices. A person who relies on
26 the information provided in the taxability matrix is not liable for underpayments of tax
27 attributable to erroneous information provided by the Secretary in the taxability ~~matrix~~ until 10
28 business days after the date of notification by the Secretary.

29"

30 **SECTION 3.19.(b)** G.S. 105-466(c) reads as rewritten:

31 "(c) Collection of the tax, and liability therefor, must begin and continue only on and
32 after the first day of a calendar quarter, as set by the board of county commissioners in the
33 resolution levying the tax. ~~In no event may the tax be imposed, or the tax rate changed, earlier~~
34 ~~than the first day of the second succeeding calendar month after the date of the adoption of the~~
35 ~~resolution.~~ The county must give the Secretary at least 90 days advance notice of a new tax
36 levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from
37 printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120
38 days from the date the Secretary notifies the seller that receives orders by means of a catalog or
39 similar publication of the new tax or tax rate change. A local rate increase may only be
40 effective on the first day of a calendar quarter after a minimum of 60 days' notice to sellers by
41 the Secretary."

42 **SECTION 3.20.** G.S. 105-164.42I(b) reads as rewritten:

43 "(b) Contract. – The Secretary may contract or authorize in writing the Streamlined Sales
44 Tax Governing Board to contract on behalf of the Secretary with a certified service provider for
45 the collection and remittance of sales and use taxes. A certified service provider must file with
46 the Secretary or the Streamlined Sales Tax Governing Board ~~a bond or an irrevocable letter of~~
47 ~~credit~~ one of the following in the amount set by the ~~Secretary.~~ Secretary: (i) a bond; (ii) an
48 irrevocable letter of credit; or (iii) evidence of a certificate of deposit. A ~~bond or bond,~~
49 irrevocable letter of ~~credit~~ credit, or certificate of deposit must be conditioned upon compliance
50 with the contract, be payable to the State or the Streamlined Sales Tax Governing Board, and
51 be in the form required by the ~~Secretary.~~ Secretary or the Streamlined Sales Tax Governing

1 Board. The amount a certified service provider charges under the contract is a cost of collecting
2 the tax and is payable from the amount collected."

3 **SECTION 3.21.(a)** G.S. 105-187.1 reads as rewritten:

4 "**§ 105-187.1. Definitions.**

5 The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

- 6 (1) Commissioner. – The Commissioner of Motor Vehicles.
7 (2) Division. – The Division of Motor Vehicles, Department of Transportation.
8 (3) Long-term lease or rental. – A lease or rental made under a written
9 agreement to lease or rent property to the same person for a period of at least
10 365 continuous days.
11 (4) Park model RV. – A vehicle that meets all of the following conditions:
12 a. Is designed and marketed as temporary living quarters for
13 recreational, camping, travel, or seasonal use.
14 b. Is certified by the manufacturer as complying with ANSI A119.5.
15 c. Is built on a single chassis mounted on wheels with a gross trailer
16 area not exceeding 400 square feet in the setup mode.
17 ~~(4)~~(5) Recreational vehicle. – Defined in G.S. 20-4.01. The term also includes a
18 park model RV.
19 ~~(5)~~(6) Rescue squad. – An organization that provides rescue services, emergency
20 medical services, or both.
21 ~~(6)~~(7) Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged in the
22 business of selling, leasing, or renting motor vehicles.
23 ~~(7)~~(8) Short-term lease or rental. – A lease or rental that is not a long-term lease or
24 rental."

25 **SECTION 3.21.(b)** G.S. 105-164.13(32) reads as rewritten:

26 "**§ 105-164.13. Retail sales and use tax.**

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

- 30 ...
31 (32) Sales of motor vehicles, the sale of a motor vehicle body to be mounted on a
32 motor vehicle chassis when a certificate of title has not been issued for the
33 chassis, and the sale of a motor vehicle body mounted on a motor vehicle
34 chassis that temporarily enters the State so the manufacturer of the body can
35 mount the body on the chassis. For purposes of this subdivision, a park
36 model RV, as defined in G.S. 105-187.1, is a motor vehicle."

37 **SECTION 3.22.** G.S. 105-187.6(c) reads as rewritten:

38 "(c) Out-of-state Vehicles. – A maximum tax of one hundred fifty dollars (\$150.00)
39 applies when a certificate of title is issued for a motor vehicle that, at the time of applying for a
40 certificate of title, is and has been titled in the name of the owner of the motor vehicle in
41 another state for at least 90 days.days prior to the date of application for a certificate of title in
42 this State."

43 **SECTION 3.23.** G.S. 105-187.21 reads as rewritten:

44 "**§ 105-187.21. Tax imposed.**

45 A privilege tax is imposed on a white goods retailer at a flat rate for each new white good
46 that is sold by the retailer. An excise tax is imposed on a new white good purchased ~~outside the~~
47 ~~State~~ for storage, use, or consumption in this State. The rate of the privilege tax and the excise
48 tax is three dollars (\$3.00). These taxes are in addition to all other taxes."

49 **SECTION 3.24.** G.S. 105-538 reads as rewritten:

50 "**§ 105-538. Administration of taxes.**

1 The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of
2 the tax levied under this Article. If the Secretary collects taxes under this Article in a month and
3 the taxes cannot be identified as being attributable to a particular taxing county, the Secretary
4 must allocate the net proceeds of these taxes among the taxing counties in proportion to the
5 amount of taxes collected in each county under this Article in that month. For purposes of this
6 Article, the term "net proceeds" has the same meaning as defined in G.S. 105-472.

7 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
8 of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1
9 is an administrative provision that applies to this Article. A tax levied under this Article does
10 not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to
11 the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary
12 shall not divide the amount allocated to a county between the county and the municipalities
13 within the county."
14

15 **PART IV. EXCISE TAX CHANGES**

16 **SECTION 4.1.(a)** G.S. 105-113.13 reads as rewritten:

17 **"§ 105-113.13. Secretary may require a bond or irrevocable letter of credit.**

18 (a) Repealed by Session Laws 2013-414, s. 22(c), effective September 1, 2013.

19 (b) The Secretary may require a distributor to furnish a bond in an amount that
20 adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A
21 bond must be conditioned on compliance with this Part, payable to the State, and in the form
22 required by the Secretary. ~~The Secretary must set the bond amount based on the anticipated tax~~
23 ~~liability of the distributor.~~ The amount of the bond is two times the distributor's average
24 expected monthly tax liability under this Article, as determined by the Secretary, provided the
25 amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more
26 than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency
27 of bonds required of the distributor and increase the required bond amount if the amount no
28 longer covers the anticipated tax liability of the distributor and decrease the amount if the
29 Secretary finds that a lower bond amount will protect the State adequately from loss.

30 For purposes of this section, a distributor may substitute an irrevocable letter of credit for
31 the secured bond required by this section. The letter of credit must be issued by a commercial
32 bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit
33 must be in a form acceptable to the Secretary, conditioned upon compliance with this Article,
34 and in the amounts stipulated in this section."

35 **SECTION 4.1.(b)** G.S. 105-113.38 reads as rewritten:

36 **"§ 105-113.38. Bond or irrevocable letter of credit.**

37 The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an
38 amount that adequately protects the State from loss if the dealer fails to pay taxes due under
39 this Part. A bond must be conditioned on compliance with this Part, payable to the State, and in
40 the form required by the Secretary. ~~The bond amount must be proportionate to the anticipated~~
41 ~~tax liability of the wholesale dealer or retail dealer.~~ The amount of the bond is two times the
42 wholesale or retail dealer's average expected monthly tax liability under this Article, as
43 determined by the Secretary, provided the amount of the bond may not be less than two
44 thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The
45 Secretary should periodically review the sufficiency of bonds required of dealers, and increase
46 the amount of a required bond when the amount of the bond furnished no longer covers the
47 anticipated tax liability of the wholesale dealer or retail dealer and decrease the amount when
48 the Secretary determines that a smaller bond amount will adequately protect the State from
49 loss.

50 For purposes of this section, a wholesale dealer or a retail dealer may substitute an
51 irrevocable letter of credit for the secured bond required by this section. The letter of credit

1 must be issued by a commercial bank acceptable to the Secretary and available to the State as a
2 beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon
3 compliance with this Article, and in the amounts stipulated in this section."

4 **SECTION 4.1.(c)** G.S. 105-113.86 reads as rewritten:

5 "**§ 105-113.86. Bond or irrevocable letter of credit.**

6 (a) Wholesalers and Importers. – A wholesaler or importer must file with the Secretary
7 a bond ~~in an amount of not less than five thousand dollars (\$5,000). The amount of the bond~~
8 ~~must be proportionate to the anticipated tax liability of the wholesaler or importer. that~~
9 adequately protects the State from loss if the wholesaler or importer fails to pay taxes due under
10 this Article. A bond must be conditioned on compliance with this Article, payable to the
11 Secretary, and in a form required by the Secretary. The amount of the bond is two times the
12 wholesaler's or importer's average expected monthly tax liability under this Article, as
13 determined by the Secretary, provided the amount of the bond may not be less than two
14 thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The
15 Secretary should periodically review the sufficiency of the bonds required under this section.
16 The Secretary may increase the proportionate amount required, not to exceed fifty thousand
17 dollars (\$50,000), if the bond furnished no longer covers the taxpayer's anticipated tax liability.
18 The Secretary may decrease the proportionate amount required when the Secretary determines
19 that a smaller bond amount will adequately protect the State from loss. The bond must be
20 conditioned on compliance with this Article, payable to the State, in a form acceptable to the
21 Secretary, and secured by a corporate surety of wholesalers and importers and increase the
22 amount of a required bond when the amount of the bond furnished no longer covers the
23 anticipated tax liability of the wholesaler or importer and decrease the amount when the
24 Secretary determines that a smaller bond amount will adequately protect the State from loss.

25 (b) Nonresident Vendors. – The Secretary may require the holder of a nonresident
26 vendor ABC permit to furnish a bond in an amount not to exceed two thousand dollars
27 (\$2,000). The bond shall be conditioned on compliance with this Article, shall be payable to the
28 State, shall be in a form acceptable to the Secretary, and shall be secured by a corporate surety
29 or by a pledge of obligations of the federal government, the State, or a political subdivision of
30 the State.

31 (c) Letter of Credit. – For purposes of this section, a wholesaler or importer or a
32 nonresident vendor may substitute an irrevocable letter of credit for the secured bond required
33 by this section. The letter of credit must be issued by a commercial bank acceptable to the
34 Secretary and available to the State as a beneficiary. The letter of credit must be in a form
35 acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts
36 stipulated in this section."

37 **SECTION 4.2.** G.S. 105-113.35(a) reads as rewritten:

38 "(a) Tax on Tobacco Products. – An excise tax is levied on tobacco products ~~other than~~
39 ~~cigarettes and vapor products~~ at the rate of twelve and eight-tenths percent (12.8%) of the cost
40 price of the products. The tax rate does not apply to the following:

41 (1) Cigarettes subject to the tax in G.S. 105-113.5.

42 (2) Vapor products subject to the tax in subsection (a1) of this section."

43 **SECTION 4.3.** G.S. 105-113.83(b) reads as rewritten:

44 "(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under
45 G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident
46 wholesaler or importer who first handles the beverages in this State. The excise taxes levied
47 under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to
48 G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and
49 wine are payable only once on the same beverages. The-Unless otherwise provided, the tax is
50 due on or before the 15th day of the month following the month in which the beverage is first
51 sold or otherwise disposed of in this State by the wholesaler, importer, or wine shipper

1 permittee. When excise taxes are paid on wine or malt beverages, the ~~wholesaler, importer, or~~
2 ~~wine shipper permittee~~ wholesaler or importer must submit to the Secretary verified reports on
3 forms provided by the Secretary detailing sales records for the month for which the taxes are
4 paid. The report must indicate the amount of excise tax due, contain the information required
5 by the Secretary, and indicate separately any transactions to which the excise tax does not
6 apply. A wine shipper permittee shall submit verified reports once a year on forms provided by
7 the Secretary detailing sales records for the year the taxes are paid. The verified report is due on
8 or before the fifteenth day of the first month of the following calendar year."

9 **SECTION 4.4.(a)** G.S. 105-187.82 is repealed.

10 **SECTION 4.4.(b)** G.S. 105-187.77(a) reads as rewritten:

11 "(a) Purpose. – An excise tax is levied on the privilege of engaging in the severance of
12 energy minerals from the soil or water of this State. The tax is imposed on the producer of the
13 energy mineral. The purpose of the tax is to provide revenue to administer and enforce the
14 provisions of this Article, to administer the State's natural gas and oil reclamation regulatory
15 program, to meet the environmental and resource management needs of this State, and to
16 reclaim land affected by exploration for, drilling for, and production of natural gas and oil. The
17 severance tax is imposed upon all energy minerals severed when sold."

18 **SECTION 4.4.(c)** G.S. 105-187.81 reads as rewritten:

19 **"§ 105-187.81. Bond or letter of credit required.**

20 A producer must file with the Secretary a bond or an irrevocable letter of credit ~~if the~~
21 ~~producer fails to file a return required under this Article prior to obtaining a permit under~~
22 G.S. 113-395. A bond or an irrevocable letter of credit must be conditioned upon compliance
23 with the requirements of this Article, be payable to the State, and be in the form required by the
24 Secretary. The amount of the bond or irrevocable letter of credit is two times the applicant's
25 average expected monthly tax liability under this Article, as determined by the ~~Secretary.~~
26 Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000)
27 and may not be more than two million dollars (\$2,000,000). The Secretary should periodically
28 review the sufficiency of bonds required of producers and increase the amount of a required
29 bond when the amount of the bond furnished no longer covers the anticipated tax liability of the
30 producer and decrease the amount when the Secretary determines that a smaller bond amount
31 will adequately protect the State from loss. When notified to do so by the Secretary, a person
32 who is required to file a bond or an irrevocable letter of credit must file the bond or irrevocable
33 letter of credit in the amount required by the Secretary within 30 days after receiving the notice
34 from the Secretary."

35 **SECTION 4.5.(a)** G.S. 105-259(b) reads as rewritten:

36 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
37 access to tax information in the course of service to or employment by the State may not
38 disclose the information to any other person except as provided in this subsection. Standards
39 used or to be used for the selection of returns for examination and data used or to be used for
40 determining the standards may not be disclosed for any purpose. All other tax information may
41 be disclosed only if the disclosure is made for one of the following purposes:

42 ...

43 (40) To furnish a nonparticipating manufacturer, as defined in G.S. 66-292, the
44 amount of the manufacturer's tobacco products that a taxpayer ~~sells~~ sold in
45 this State by distributor, and that the Secretary reports to the Attorney
46 General under G.S. 105-113.4C.

47 ...

48 (49) To provide public access to a list containing the name and account number
49 of entities licensed under Article 2A of this Chapter to aid in the
50 administration of the tobacco products tax.

1 (50) To exchange information regarding the tax imposed on motor carriers under
2 Article 36B of this Chapter with other jurisdictions that administer the
3 International Fuel Tax Agreement to aid in the administration of the
4 Agreement."

5 **SECTION 4.5.(b)** G.S. 105-449.57(c) reads as rewritten:

6 "(c) Disclosure. – In accordance with G.S. 105-259, the Secretary may, as required by
7 the terms of an agreement, forward to officials of another jurisdiction any information in the
8 Department's possession relative to the administration and collection of a tax imposed on the
9 use of motor fuel or alternative fuel by any motor carrier. The Secretary may disclose to
10 officials of another jurisdiction the location of offices, motor vehicles, and other real and
11 personal property of motor carriers."

12 **SECTION 4.6.** G.S. 105-449.49 reads as rewritten:

13 "**§ 105-449.49. Temporary permits.**

14 (a) Issuance. – Upon application to the Secretary and payment of a fee of fifty dollars
15 (\$50.00), a ~~motor carrier~~permitting service may obtain a temporary permit authorizing ~~the a~~
16 motor carrier to operate a vehicle in the State for three days without registering the vehicle in
17 accordance with G.S. 105-449.47. The permitting service may sell the temporary permit to a
18 motor carrier. A motor carrier to whom a temporary permit has been issued may elect not to
19 report its operation of the vehicle during the three-day period. Fees collected under this
20 subsection are credited to the Highway Fund.

21 ~~(b) Refusal. — The Secretary may refuse to issue a temporary permit to any of the~~
22 ~~following:~~

23 ~~(1) A motor carrier whose registration has been withheld or revoked.~~

24 ~~(2) A motor carrier who the Secretary determines is evading payment of tax~~
25 ~~through the successive purchase of temporary permits."~~

26 **SECTION 4.7.(a)** G.S. 105-449.57(a) reads as rewritten:

27 "(a) Authority. – The Secretary may enter into cooperative agreements with other
28 jurisdictions for exchange of information in administering the tax imposed by this Article. No
29 agreement, arrangement, declaration, or amendment to an agreement is effective until stated in
30 writing and approved by the ~~Secretary.~~Secretary or the Secretary's designee."

31 **SECTION 4.7.(b)** G.S. 150-449.57(e) reads as rewritten:

32 "(e) Restriction. – The Secretary or the Secretary's designee may not enter into any
33 agreement that would increase or decrease taxes and fees imposed under Subchapter V of
34 Chapter 105 of the General Statutes. Any provision to the contrary is void."

35 **SECTION 4.8.** G.S. 105-449.45 is amended by adding a new subsection to read:

36 "(e) Interest. – Interest on overpayments and underpayments of tax imposed on motor
37 carriers under this Article is subject to the interest rate adopted in the International Fuel Tax
38 Agreement."

39 **PART V. TAX COMPLIANCE AND TAX FRAUD PREVENTION**

40 **SECTION 5.1.(a)** G.S. 105-163.7 reads as rewritten:

41 "**§ 105-163.7. Statement to employees; information to Secretary.**

42 (a) Report to Employee. – Every employer required to deduct and withhold from an
43 employee's wages under G.S. 105-163.2 shall furnish to the employee in respect to the
44 remuneration paid by the employer to such employee during the calendar year, on or before
45 January 31 of the succeeding year, or, if the employment is terminated before the close of the
46 calendar year, within 30 days after the date on which the last payment of remuneration is made,
47 duplicate copies of a written statement showing the following:

48 (1) The employer's name, address, and taxpayer identification number.

49 (2) The employee's ~~name~~name, address, and social security number.

50 (3) The total amount of ~~wages.~~wages or remuneration made.

1 (4) The total amount deducted and withheld under G.S. 105-163.2.

2 (b) ~~The Secretary may require an employer to include information not listed in~~
3 ~~subsection (a) on the employer's written statement to an employee and to file the statement at a~~
4 ~~time not required by subsection (a). Report to Secretary. – Every employer shall file an annual~~
5 report with the Secretary that contains the information given on each of the employer's written
6 statements to an employee and any other information required by the Secretary. The annual
7 report is due on ~~the same date the employer's federal information return of federal income taxes~~
8 ~~withheld from wages is due under the Code. or before January 31 of the succeeding year and~~
9 must be filed in an electronic format as prescribed by the Secretary. The Secretary may, upon a
10 showing of good cause, waive the electronic submission requirement. The report required by
11 this subsection is in lieu of the report required by G.S. 105-154.

12 (c) Repealed by Session Laws 2002-72, s. 16, effective August 12, 2002."

13 **SECTION 5.1.(b)** G.S. 105-236(a)(10) reads as rewritten:

14 "**§ 105-236. Penalties; situs of violations; penalty disposition.**

15 (a) Penalties. – The following civil penalties and criminal offenses apply:

16 ...

17 (10) Failure to File Informational Returns. –

18 a. Repealed by Session Laws 1998-212, s. 29A.14(m), effective
19 January 1, 1999.

20 b. The Secretary may request a person who fails to file timely
21 statements of payment to another person with respect to wages,
22 dividends, rents, or interest paid to that person to file the statements
23 by a certain date. If the payer fails to file the statements by that date,
24 the amounts claimed on the payer's income tax return as deductions
25 for salaries and wages, or rents or interest shall be disallowed to the
26 extent that the payer failed to comply with the Secretary's request
27 with respect to the statements.

28 c. For failure to file with the Secretary an informational return required
29 by ~~Article 36C or 36D~~ Article 4A, 36C, or 36D of this Chapter by the
30 date the return is due, there shall be assessed a penalty of fifty dollars
31 (\$50.00)."

32 **SECTION 5.1.(c)** G.S. 105-163.2A(b) reads as rewritten:

33 "(b) Withholding Required. – A pension payer required to withhold federal taxes under
34 section 3405 of the Code on a pension payment to a resident of this State must deduct and
35 withhold from the payment the State income taxes payable on the payment. Liability for
36 withholding and paying taxes under this section on a pension payment falls on the person who
37 would be liable under section 3405 of the Code for withholding federal taxes on the payment.

38 Except as otherwise provided in this section, the provisions of this Article apply to a
39 pension payer's pension payment to a resident of this State as if it were an employer's payment
40 of wages to an employee. The pension payer must file a return, pay the withheld taxes, and
41 report the amount withheld in the time and manner required under G.S. 105-163.6 and
42 G.S. 105-163.7 as if the pension payment were wages. If a pension payer has more than one
43 arrangement under which it may make pension payments to a resident of this State, each
44 arrangement must be treated separately under this section."

45 **SECTION 5.1.(d)** G.S. 105-163.2B reads as rewritten:

46 "**§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

47 The North Carolina State Lottery Commission, established by Chapter 18C of the General
48 Statutes, must deduct and withhold State income taxes from the payment of winnings in an
49 amount of six hundred dollars (\$600.00) or more. The amount of taxes to be withheld is a
50 percentage of the winnings. The percentage is the individual income tax rate in G.S. 105-153.7.
51 The Commission must file a return, pay the withheld taxes, and report the amount withheld in

1 the time and manner required under G.S. 105-163.6 and G.S. 105-163.7 as if the winnings were
2 wages. The taxes the Commission withholds are held in trust for the Secretary."

3 **SECTION 5.1.(e)** G.S. 105-163.3 reads as rewritten:

4 "**§ 105-163.3. Certain payers must withhold taxes.**

5 ...

6 (e) ~~Returns.—A payer must file a return with the Secretary and pay the withheld taxes~~
7 ~~to the Secretary in accordance with the requirements in G.S. 105-163.6.~~

8 (d) Returns, Annual Statement-Statement, and Report. – A payer required to deduct and
9 withhold from a contractor's compensation under this section must file a return, pay the
10 withheld taxes, and report the amount withheld in the time and manner required under
11 G.S. 105-163.6 and G.S. 105-163.7 as if the compensation were wages.~~give the contractor a~~
12 ~~written statement that sets out the following information and any other information required by~~
13 ~~the Secretary:~~

14 (1) ~~The payer's name, address, and taxpayer identification number.~~

15 (2) ~~The contractor's name, address, and taxpayer identification number.~~

16 (3) ~~The total amount of compensation paid during the calendar year.~~

17 (4) ~~The total amount deducted and withheld under this section during the~~
18 ~~calendar year.~~

19 ~~This statement is due by January 31 following the end of the calendar year, unless the personal~~
20 ~~services for which the payer is paying are completed before the end of the calendar year and the~~
21 ~~contractor requests the statement when the services are completed. In this circumstance, the~~
22 ~~statement is due within 45 days after the payer's last payment of compensation to the~~
23 ~~contractor.~~

24 ~~Each payer shall file with the Secretary an annual report that compiles the information~~
25 ~~contained in each of the payer's statements to contractors and any other information required by~~
26 ~~the Secretary in the manner required by the Secretary. This report is due on the date prescribed~~
27 ~~by the Secretary and is in lieu of the information report required by G.S. 105-154.~~

28"

29 **SECTION 5.1.(f)** Subsection (b) of this section is effective for taxable years
30 beginning on or after January 1, 2016, and applies to information returns required to be filed
31 with the Secretary in 2017 for the 2016 taxable year. The remainder of this section is effective
32 for taxable years beginning on or after January 1, 2015, and applies to information returns
33 required to be filed with the Secretary in 2016 for the 2015 taxable year.

34 **SECTION 5.2.** G.S. 105-237 reads as rewritten:

35 "**§ 105-237. ~~Waiver of penalties;~~Waiver; installment payments.**

36 (a) Waiver. – The Secretary may, upon making a record of the reasons therefor, ~~reduce~~
37 do the following:

38 (1) Reduce or waive any penalties provided for in this Subchapter.

39 (2) Reduce or waive any interest provided for in this Subchapter on taxes
40 imposed prior to or during a period for which a taxpayer has declared
41 bankruptcy under Chapter 7 or Chapter 13 of Title 11 of the United States
42 Code.

43 (b) Installment Payments. – After a proposed assessment of a tax becomes final, the
44 Secretary may enter into an agreement with the taxpayer for payment of the tax in installments
45 if the Secretary determines that the agreement will facilitate collection of the tax. The
46 agreement may include a waiver of penalties but may not include a waiver of liability for tax or
47 interest due. The Secretary may modify or terminate the agreement if one or more of the
48 following findings is made:

49 (1) Information provided by the taxpayer in support of the agreement was
50 inaccurate or incomplete.

51 (2) Collection of tax to which the agreement applies is in jeopardy.

1 (3) The taxpayer's financial condition has changed.

2 (4) The taxpayer has failed to pay an installment when due or to pay another tax
3 when due.

4 (5) The taxpayer has failed to provide information requested by the Secretary.

5 The Secretary must give a taxpayer who has entered into an installment agreement at least
6 30 days' written notice before modifying or terminating the agreement on the grounds that the
7 taxpayer's financial condition has changed unless the taxpayer failed to disclose or concealed
8 assets or income when the agreement was made or the taxpayer has acquired assets since the
9 agreement was made that can satisfy all or part of the tax liability. A notice must specify the
10 basis for the Secretary's finding of a change in the taxpayer's financial condition."

11 **SECTION 5.3.(a)** Article 9 of Subchapter I of Chapter 105 of the General Statutes
12 is amended by adding a new section to read:

13 **"§ 105-251.2. Compliance information requests.**

14 (a) Licensing Boards. – A North Carolina licensing board listed in this subsection must
15 give information to the Secretary when the Secretary requests the information. The Secretary
16 may not request the information more than one time per calendar year. The Secretary may
17 request the board to provide on a return, a report, or otherwise, a licensee's name, license
18 number, tax identification number, business address, and any other information pertaining to
19 the licensee in possession of the board that the Secretary deems necessary to determine the
20 licensee's compliance with this Chapter. This subsection applies to the following boards:

21 (1) Licensing Board for General Contractors.

22 (2) North Carolina Medical Board.

23 (3) North Carolina State Bar.

24 (4) North Carolina State Board of Dental Examiners.

25 (5) North Carolina Real Estate Commission.

26 (6) American Board of Ophthalmology.

27 (7) North Carolina State Board of Certified Public Accountant Examiners.

28 (8) North Carolina Board of Nursing.

29 (9) North Carolina State Board of Examiners for Nursing Home Administrators.

30 (10) North Carolina Professional Photographer.

31 (11) Veterinary Medical Board.

32 (12) North Carolina Department of Health and Human Services.

33 (13) North Carolina State Board of Examiners in Optometry.

34 (14) North Carolina Board of Examiners of Plumbing, Heating, and Fire
35 Sprinkler Contractors.

36 (15) North Carolina Board of Chiropractic Examiners.

37 (16) Landscape Contractors' Registration Board.

38 (17) North Carolina Board of Examiners of Electrical Contractors.

39 (18) Locksmith Licensing Board.

40 (19) North Carolina Board of Physical Therapy Examiners.

41 (20) North Carolina Board of Examiners for Engineers and Surveyors.

42 (21) North Carolina Board of Law Examiners.

43 (22) North Carolina State Board of Opticians.

44 (23) North Carolina Association of Naturopathic Physicians.

45 (24) North Carolina Home Inspector Licensure Board.

46 (25) North Carolina Acupuncture Licensing Board.

47 (b) Franchises. – A franchisor must give information to the Secretary when the
48 Secretary requests the information. The Secretary may not request the information more than
49 one time per calendar year. The Secretary may request the franchisor to provide on a return, a
50 report, or otherwise, any information pertaining to a franchisee in possession of the franchisor

1 that the Secretary deems necessary to determine the franchisee's compliance with this Chapter.

2 The following definitions apply in this subsection:

3 (1) Franchise. – A right, privilege, or license that a franchisee acquires to allow
4 the franchisee to have access to a franchisor's proprietary knowledge,
5 processes, and trademarks in order to allow the franchisee to sell a product
6 or provide a service in this State under the franchisor's name.

7 (2) Franchisee. – A person who acquires a franchise.

8 (3) Franchisor. – A person who grants to another a franchise.

9 (c) Alcohol Vendor. – An alcohol vendor must give information to the Secretary when
10 the Secretary requests the information. The Secretary may not request the information more
11 than one time per calendar year. The Secretary may request the alcohol vendor to provide on a
12 return, a report, or otherwise, for a permittee to which the alcohol vendor provides alcohol, a
13 permittee's name, license number, and business address, and any other information pertaining
14 to the permittee in possession of the alcohol vendor that the Secretary deems necessary to
15 determine the permittee's compliance with this Chapter. This subsection applies to the following
16 alcohol vendors:

17 (1) An ABC store in the ABC system, as defined in G.S. 18B-101.

18 (2) A wine wholesaler, as defined in G.S. 18B-1201.

19 (3) A wholesaler, as defined in G.S. 18B-1301."

20 **SECTION 5.3.(b)** This section becomes effective July 1, 2016.

21 **PART VI. OTHER TAX CHANGES**

22 **SECTION 6.1.(a)** G.S. 105-242.2(e) reads as rewritten:

23 (e) Statute of Limitations. – The period of limitations for assessing a responsible person
24 for unpaid taxes under this section expires the later of (i) one year after the expiration of the
25 period of limitations for assessing the business ~~entity~~ or (ii) one year after a tax becomes
26 collectible from the business entity under G.S. 105-241.22(3), (4), (5), or (6)."

27 **SECTION 6.1.(b)** This section is effective when this act becomes law and applies
28 to a tax that becomes collectible from the business entity under G.S. 105-241.22(3), (4), (5), or
29 (6) on or after that date.

30 **SECTION 6.2.** G.S. 105-521 is repealed.

31 **SECTION 6.3.(a)** G.S. 131E-28 is repealed.

32 **SECTION 6.3.(b)** G.S. 105-130.5(b)(1a) reads as rewritten:

33 (b) The following deductions from federal taxable income shall be made in determining
34 State net income:

35 ...

36 (1a) Interest upon the obligations of any of the following, net of related expenses,
37 to the extent included in federal taxable income:

38 a. This State, a political subdivision of this State, or a commission, an
39 authority, or another agency of this State or of a political subdivision
40 of this State.

41 b. A nonprofit educational institution organized or chartered under the
42 laws of this State.

43 c. A hospital authority created under G.S. 131E-17."

44 **SECTION 6.3.(c)** G.S. 105-153.5(b)(1) reads as rewritten:

45 (b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may
46 deduct from the taxpayer's adjusted gross income any of the following items that are included
47 in the taxpayer's adjusted gross income:

48 (1) Interest upon the obligations of any of the following:

49 a. The United States or its possessions.
50

