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SESSION 2015

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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
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2010	\$250,000	\$800,000
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2011	\$250,000	\$800,000
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2012	\$250,000	\$800,000
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2013	\$25,000	\$200,000
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<u>2014</u>	<u>\$25,000</u>	<u>\$200,000"</u>
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SECTION 1.2.(b) G.S. 105-153.6(c) reads as rewritten:



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"§ 105-153.6. 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 or adjusted gross income, as appropriate, 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 that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

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

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

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

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

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

Filing Status	Standard Deduction
Married, filing jointly	\$15,000
Head of Household	12,000
Single	7,500
Married, filing separately	7,500.

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

- a. The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year. For taxable year 2014, a taxpayer who elected to take the income exclusion under section 408(d)(8) of the Code for a qualified charitable distribution from an 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 charitable deduction under section 170 of the Code had the taxpayer not elected to take the income exclusion.
- b. The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect

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

21 ...

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

25 (1) For taxable year 2014, the amount of the taxpayer's deduction for qualified
26 tuition and related expenses under section 222 of the Code. The purpose of
27 this subdivision is to decouple from the extension of the federal
28 above-the-line deduction under section 107 of the Tax Increase Prevention
29 Act of 2014.

30 (2) For taxable year 2014, the amount excluded from the taxpayer's gross
31 income for a qualified charitable distribution from an individual retirement
32 plan by a person who has attained age 70 1/2 under section 408(d)(8) of the
33 Code. The purpose of this subdivision is to decouple from the extension of
34 the income exclusion under section 108 of the Tax Increase Prevention Act
35 of 2014.

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

38 **SECTION 1.4.** This Part is effective when this act becomes law. Notwithstanding
39 Section 1 of this act, any amendments to the Internal Revenue Code enacted after December
40 31, 2013, that increase North Carolina taxable income for the 2014 taxable year are effective
41 for taxable years beginning on or after January 1, 2015.

42 43 **PART II. MOTOR FUEL TAX CHANGES**

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

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

47 "(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents
48 (17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is
49 either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale
50 price of motor fuel for the applicable base period, whichever is greater.

1 The two base periods are six-month periods; one ends on September 30 and one ends on
 2 March 31. ~~period is a twelve-month period ending September 30.~~ The Secretary must set the
 3 tax rate ~~twice~~ for a year based on the wholesale price for each base period. A tax rate set by the
 4 Secretary using information for the base period ~~that ends on September 30~~ applies to the
 5 ~~six-month period~~ calendar year that begins the following January 1. ~~A tax rate set by the~~
 6 ~~Secretary using information for the base period that ends on March 31~~ applies to the six-month
 7 ~~period that begins the following July 1.~~"

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

9 "(c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the
 10 amount of State sales and use tax to be deducted under this section from a motor fuel excise tax
 11 refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First
 12 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this
 13 section from a motor fuel excise tax refund. The sales price and the cost price of motor fuel to
 14 be used in determining the amount to deduct is the average of the wholesale prices used under
 15 G.S. 105-449.80 to determine the excise tax rates rate in effect for the ~~two six-month periods of~~
 16 ~~the calendar year~~ for which the refund is claimed."

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

18 "**SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance
 19 and operation of the Department of Transportation and for other purposes as enumerated are
 20 adjusted for the fiscal year ending June 30, 2015, according to the following schedule.
 21 Amounts set out in parentheses are reductions from Highway Trust Fund Appropriations for the
 22 2014-2015 fiscal year.

23
 24 **Current Operations – Highway Trust Fund**

2014-2015

25	Program Administration	(\$11,000,000)
26	Aid to Municipalities	0
27	Intrastate	0
28	Secondary Roads	0
29	Urban Loops	0
30	Mobility Fund	0
31	Turnpike Authority	0
32	Transfer to General Fund	0
33	Transfer to Highway Fund	0
34	Debt Service	0
35	Strategic Prioritization Funding Plan for Transportation Investments	67,993,140
36		<u>64,643,140</u>

37
 38 **Total Highway Trust Fund Appropriations**

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

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

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

42
 43 **Highway Trust Fund Availability Statement**

2014-2015

44	Unreserved Fund Balance	\$ 0
45	Estimated Revenue	1,162,370,000
46		<u>1,159,020,000</u>
47	Adjustment to Revenue Availability:	
48	Motor Fuel Tax Refund Repeal (Taxi Cabs)	23,140

49
 50 **Total Highway Trust Fund Availability**

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

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

43 **SECTION 2.4.(d)** Section 3.2 of S.L. 2014-100 reads as rewritten:
44 "SECTION 3.2. Section 3.2 of S.L. 2013-360 is repealed. The Highway Fund availability
45 used in adjusting the 2014-2015 fiscal year budget is shown below:

46		
47	Highway Fund Availability Statement	2014-2015
48		
49	Unreserved Fund Balance	\$ 12,000,000
50	Estimated Revenue	1,973,750,000
51	Adjustment to Revenue Availability:	

1	Motor Fuel Tax (Shallow Draft Navigation Channel Dredging Fund)	(1,677,134)
2	Motor Fuel Tax Refund Repeal (Taxi Cabs)	69,420
3	<u>Reductions Made Pursuant to Senate Bill 20:</u>	
4	"IRC Update/Motor Fuel Tax Changes," 2015 Regular Session	(10,050,000)
5	Revised Total Highway Fund Availability	<u>\$1,984,142,286</u> <u>\$1,974,092,286</u>

6
 7 **Unappropriated Balance** **\$ 0"**

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

- 13 (1) 84210-0852
- 14 (2) 84210-0862
- 15 (3) 84210-0864
- 16 (4) 84210-0865
- 17 (5) 84210-0867
- 18 (6) 84210-0868
- 19 (7) 84210-0871
- 20 (8) 84210-0873
- 21 (9) 84210-0877
- 22 (10) 84210-0878
- 23 (11) 84210-0881
- 24 (12) 84210-0882
- 25 (13) 84210-0885
- 26 (14) 84210-0889
- 27 (15) 84210-0892
- 28 (16) 84210-0893
- 29 (17) 84210-0933
- 30 (18) 84210-0934
- 31 (19) 84210-0935
- 32 (20) 84210-0937
- 33 (21) 84210-1165
- 34 (22) 84210-1260
- 35 (23) 84210-7040
- 36 (24) 84210-7615
- 37 (25) 84210-7818
- 38 (26) 84210-7821
- 39 (27) 84210-7822
- 40 (28) 84210-7824
- 41 (29) 84210-7825
- 42 (30) 84210-7826
- 43 (31) 84210-7827
- 44 (32) 84210-7828
- 45 (33) 84210-7834
- 46 (34) 84210-7836
- 47 (35) 84210-7839
- 48 (36) 84210-7841

49 **SECTION 2.4.(f)** For the 2014-2015 fiscal year, appropriations to each of the
 50 following certified fund codes within the Highway Fund are hereby reduced by one-half

1 percent (1/2%), which shall amount to a total reduction of two million three hundred
2 seventy-nine thousand nine hundred ninety-four dollars (\$2,379,994):

3 (1) 84210-7821

4 (2) 84210-7822

5 (3) 84210-7841

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

9 (1) One million forty-five thousand two hundred dollars (\$1,045,200) to the
10 total amount of funds appropriated pursuant to G.S. 136-41.1.

11 (2) Sixteen thousand seven hundred fifty dollars (\$16,750) to the total amount of
12 funds credited to the Wildlife Resources Fund pursuant to G.S. 105-449.126.

13 (3) Sixteen thousand seven hundred fifty dollars (\$16,750) to the total amount of
14 funds credited to the Shallow Draft Navigation Channel and Lake Dredging
15 Fund pursuant to G.S. 105-449.126.

16 **SECTION 2.4.(h)** The Secretary of the Department of Transportation shall
17 eliminate a minimum of 40 vacant positions within the Department of Transportation to
18 achieve a total reduction of six hundred eighty-three thousand one hundred eighty-five dollars
19 (\$683,185). The Secretary of the Department of Transportation may use lapsed salaries to meet
20 the reduction required under this subsection.

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

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

31
32 **PART III. EFFECTIVE DATE**

33 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
34 law.