



**NORTH CAROLINA GENERAL ASSEMBLY
CONFERENCE REPORT
Senate Bill 628**

S628-CRRB-3 [v.1]

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[NO] Title Change

[NO] For Committee Substitute

To: The President of the Senate
 The Speaker of the House of Representatives

The conferees appointed to resolve the differences between the Senate and the House of Representatives on Senate Bill 628, A BILL TO BE ENTITLED AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS, House Committee Substitute Favorable 6/22/17, Fifth Edition Engrossed 6/28/17, submit the following report:

The Senate and the House agree to the following amendments to the House Committee Substitute Favorable 6/22/17, Fifth Edition Engrossed 6/28/17, and the Senate concurs in the House Committee Substitute Favorable 6/22/17, Fifth Edition Engrossed 6/28/17, as amended:

On page 9, line 33, through page 10, line 48, by deleting those lines;

And on page 10, line 49, through page 11, line 5, by rewriting those lines to read:

"SECTION 1.11.(a) G.S. 105-228.5(d)(3) reads as rewritten:

'(3) Additional Rate on Property Coverage Contracts. – An additional tax at the rate of seventy-four hundredths percent (0.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. Twenty percent (20%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. Twenty percent (20%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. Up to twenty percent (20%), as determined in accordance with G.S. 58-87-10(f), must be credited to the Workers' Compensation Fund. The remaining net proceeds must be credited to the General Fund. The additional tax imposed on property coverage contracts under this subdivision is a special purpose assessment based on gross premiums and not a gross premiums tax.'

SECTION 1.11.(b) A taxpayer that elected to take a business energy and tax credit against the gross premiums tax for a taxable year beginning before January 1, 2017, may take an installment or carryforward of the credit against the additional tax imposed under G.S. 105-228.5(d)(3) for taxable years beginning before January 1, 2017. A taxpayer may not take an



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installment or carryforward of the credit against the additional tax imposed under G.S. 105-228.5(d)(3) for taxable years beginning on or after January 1, 2017. A taxpayer may apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the benefit enacted by this subsection. A request for a refund must be made on or before January 1, 2018. A request for a refund received after this date is barred.

SECTION 1.11.(c) The gross premiums tax is a tax imposed on the gross premiums of insurers, Article 65 corporations, health maintenance organizations, and self-insurers. Entities subject to the gross premiums tax are not subject to franchise or income taxes. In S.L. 2009-548, the General Assembly broadened the taxes against which the business and energy tax credits could be taken from income and franchise taxes to income, franchise, and gross premiums taxes.

The gross premiums tax rate is set in G.S. 105-228.5(d)(1) and (2). Separate and apart from the gross premiums taxes, G.S. 105-228.5(d)(3) imposes an additional tax that is calculated using a person's gross premiums but is not considered part of the gross premiums tax imposition. The Department of Revenue has historically administered the gross premium tax and the additional tax imposed under G.S. 105-228.5 as two separate and distinct taxes. Satisfied with this administration, the General Assembly did not address the separate treatment of the two taxes in S.L. 2009-548.

The intent of this section is two-fold, as follows:

- (1) To clarify the accuracy of the Department's interpretation of the current and continuing state of the law by expressly codifying the long-standing interpretation that the additional tax imposed by G.S. 105-228.5(d)(3) is a separate and distinct tax that is based upon gross premiums but is not a gross premiums tax.
- (2) To avoid costly potential litigation with taxpayers that have failed to properly take an installment or carryforward of a business and energy tax credit against only the gross premiums tax by permitting the taxpayers to take installments and carryforwards of that tax credit for taxable years beginning before January 1, 2017, against the additional tax that is imposed under G.S. 105-228.5(d)(3).";

And on page 24, lines 22 and 26, by deleting "45 days" each time it appears and substituting "120 days";

And on page 33, lines 9 and 10, by inserting a new section between those lines to read:

"SECTION 4.1.(e) G.S. 105-241.16 reads as rewritten:

'§ 105-241.16. Judicial review of decision after contested case hearing.

A ~~taxpayer-party~~ aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings may seek judicial review of the decision in accordance with Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition for judicial review must be filed in the Superior Court of Wake County and in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). Before filing a petition for judicial review, a taxpayer must pay the amount of tax, penalties, and interest the final decision states is due. A ~~taxpayer-party~~ may appeal a decision of the Business Court to the appellate division in accordance with G.S. 150B-52.";

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And on page 41, line 3, through page 42, line 13, by rewriting those lines to read:

"SECTION 4.8. G.S. 143B-1325(d), as amended by S.L. 2017-57, reads as rewritten:

(d) Report on Transition Planning. – The Community College System Office, the Department of Public Instruction, ~~the Department of Revenue,~~ and the State Board of Elections shall work with the State CIO to plan their transition to the Department. The information technology transfer and consolidation from the Department of Revenue to the Department may not take place until the system and data security of the Department meets the heightened security standards required by the federal government for purposes of sharing taxpayer information. By October 1, 2018, these agencies, in conjunction with the State CIO, shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on their respective transition plans.";

And on page 42, line 14, by rewriting the line to read:

"SECTION 4.9. Section 4.1(e) of this part becomes effective retroactively to January 1, 2012, and applies to contested cases commenced on or after that date. The remainder of this part is effective when it becomes law and applies to requests";

And on page 44, line 7, by deleting "July 1, 2017." and substituting "July 1, 2018.";

And on page 44, lines 19-21, by rewriting those lines to read:

"required only when the moneys on hand amount to ~~as much as two hundred fifty dollars (\$250.00), but in any event a deposit shall be made on the last business day of the month. five hundred dollars (\$500.00) or greater.~~ Until deposited or officially submitted to a properly licensed and";

And on page 44, line 30, by adding the following new sections to read:

"SECTION 6.2.(a) Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

'§ 105-269.8. Contribution by individual for early detection of breast and cervical cancer.

(a) Contribution. – An individual entitled to a refund of income taxes under Part 2 of Article 4 of this Chapter may elect to contribute all or part of the refund to be used for early detection of breast and cervical cancer at the Cancer Prevention and Control Branch of the Division of Public Health of the Department of Health and Human Services. The Secretary shall provide appropriate language and space on the individual income tax form in which to make the election. The Secretary shall include in the income tax instructions an explanation that the contributions will be used for early detection of breast and cervical cancer only. The election becomes irrevocable upon filing the individual's income tax return for the taxable year.

(b) Distribution. – The Secretary shall transmit the contributions made pursuant to this section to the State Treasurer to be distributed for early detection of breast and cervical cancer. The State Treasurer shall distribute the contributions to the Cancer Prevention and Control Branch of the Division of Public Health of the Department of Health and Human Services. Funds distributed pursuant to this section shall be used only for early detection of breast and cervical cancer and shall be used in accordance with North Carolina's Breast and Cervical Cancer Control Program's policies and procedures.

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(c) Sunset. – This section expires for taxable years beginning on or after January 1, 2021.

"SECTION 6.2.(b) The General Assembly finds that the funds generated by this section are intended to be additional funding for early detection of breast and cervical cancer and are not intended to replace current appropriations for early detection of breast and cervical cancer.

"SECTION 6.2.(c) This section is effective for taxable years beginning on or after January 1, 2017.

"SECTION 6.3.(a) G.S. 105-449.81, as amended by S.L. 2017-39, reads as rewritten:

'§ 105-449.81. Excise tax on motor fuel.

An excise tax at the motor fuel rate is imposed on motor fuel that is:

...

(3b) Fuel grade ethanol or biodiesel fuel if the fuel meets at least one of the following descriptions:

- a. Is produced in this State and is removed from the storage facility at the production location.
- b. Is imported to this State by means of a transport truck, a railroad tank car, a tank wagon, or a marine ~~vessel~~vessel where ethanol or biodiesel from the vessel is not delivered to a terminal that has been assigned a terminal control number by the Internal Revenue Service.
- c. Repealed by Session Laws 2009-445, s. 34(a), effective January 1, 2010.

....'

"SECTION 6.3.(b) The Department of Revenue is directed to notify taxpayers impacted by this section within 15 days of the legislation being enacted into law that motor fuel tax is not due at the time of importation when that fuel is delivered to a terminal that has been assigned a terminal control number by the Internal Revenue Service."

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The conferees recommend that the Senate and the House of Representatives adopt this report.

Date Conferees approved report: August 3, 2017.

Conferees for the Senate

Conferees for the
House of Representatives

Tommy Tucker, Chair

William Brawley, Chair

Jerry W. Tillman

Jason Saine

Bill Rabon

John Szoka

Ralph Hise

Submitted _____

ADOPTED _____

ADOPTED _____

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Message Received _____

Ordered Enrolled _____