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SENATE BILL DRS35329-BAxfz-16A*

Short Title: Various Changes to the Revenue Laws. (Public)

Sponsors: Senators Tillman and Tucker (Primary Sponsors).

Referred to:

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:
4

5 **PART I. IRC UPDATE**

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

7 "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2017~~, February
8 9, 2018, including any provisions enacted as of that date that become effective
9 either before or after that date."

10 **SECTION 1.2.** G.S. 105-130.5 reads as rewritten:

11 "**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

12 (a) The following additions to federal taxable income shall be made in determining State
13 net income:

14 ...

15 (26) The amount of gain that would be included for federal income tax purposes
16 without regard to section 1400Z-2(b) of the Code. The adjustment made in
17 this subsection does not result in a difference in basis of the affected assets for
18 State and federal income tax purposes. The purpose of this subdivision is to
19 decouple from the deferral of gains reinvested into an Opportunity Fund
20 available under federal law.

21 (27) The amount of gain that would be included in the taxpayer's federal taxable
22 income but for the step-up in basis under section 1400Z-2(c) of the Code. The
23 purpose of this subdivision is to decouple from the exclusion of gains from
24 the sale or exchange of an investment in an Opportunity Fund available under
25 federal law.

26 (28) The amount deducted under Section 250 of the Code.

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

29 ...

30 (3b) Any amount included in federal taxable income under ~~section 78 or section~~
31 ~~951~~ section 78, 951, 951A, or 965 of the Code, net of related expenses.

32 ...

33 (29) The amount of gain included in the taxpayer's federal taxable income under
34 section 1400Z-2(a) of the Code to the extent the same income was included in
35 the taxpayer's federal taxable income in a prior taxable year under subdivision
36 (a)(26) of this section. The purpose of this subdivision is to prevent double



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1 taxation of income the taxpayer was previously required to include in the
2 calculation of State net income.

3"

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

5 **"§ 105-153.5. Modifications to adjusted gross income.**

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

11 ...

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

16 ...

17 b. Mortgage Expense and Property Tax. – The amount allowed as a
18 deduction for interest paid or accrued during the taxable year under
19 section 163(h) of the Code with respect to any qualified residence plus
20 the amount allowed as a deduction for property taxes paid or accrued
21 on real estate under section 164 of the Code for that taxable year. For
22 taxable years 2014, 2015, ~~and 2016,~~ 2016, and 2017, the amount
23 allowed as a deduction for interest paid or accrued during the taxable
24 year under section 163(h) of the Code with respect to any qualified
25 residence shall not include the amount for mortgage insurance
26 premiums treated as qualified residence interest. The amount allowed
27 under this sub-subdivision may not exceed twenty thousand dollars
28 (\$20,000). For spouses filing as married filing separately or married
29 filing jointly, the total mortgage interest and real estate taxes claimed
30 by both spouses combined may not exceed twenty thousand dollars
31 (\$20,000). For spouses filing as married filing separately with a joint
32 obligation for mortgage interest and real estate taxes, the deduction for
33 these items is allowable to the spouse who actually paid them. If the
34 amount of the mortgage interest and real estate taxes paid by both
35 spouses exceeds twenty thousand dollars (\$20,000), these deductions
36 must be prorated based on the percentage paid by each spouse. For
37 joint obligations paid from joint accounts, the proration is based on the
38 income reported by each spouse for that taxable year.

39 ...

40 (c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer
41 ~~must add~~ make the following adjustments to the taxpayer's adjusted gross ~~income~~ any of the
42 ~~following items that are not included in the taxpayer's adjusted gross income:~~

43 (1) For taxable years 2014, 2015, ~~and 2016,~~ 2016, and 2017, the taxpayer must
44 add the amount excluded from the taxpayer's gross income for the discharge
45 of qualified principal residence indebtedness under section 108 of the Code.
46 The purpose of this subdivision is to decouple from the income exclusion
47 available under federal tax law. If the taxpayer is insolvent, as defined in
48 section 108(d)(3) of the Code, then the addition required under this
49 subdivision is limited to the amount of discharge of qualified principal
50 residence indebtedness excluded from adjusted gross income under section

- 1 108(a)(1)(E) of the Code that exceeds the amount of discharge of indebtedness
 2 that would have been excluded under section 108(a)(1)(B) of the Code.
- 3 (2) For taxable year 2014, 2015, ~~and 2016, 2016, and 2017~~, the taxpayer must add
 4 the amount of the taxpayer's deduction for qualified tuition and related
 5 expenses under section 222 of the Code. The purpose of this subdivision is to
 6 decouple from the above-the-line deduction available under federal tax law.
- 7 (3) For taxable years beginning on or after 2014, the taxpayer must add the
 8 amount excluded from the taxpayer's gross income for a qualified charitable
 9 distribution from an individual retirement plan by a person who has attained
 10 age 70 1/2 under section 408(d)(8) of the Code. The purpose of this
 11 subdivision is to decouple from the income exclusion available under federal
 12 tax law.
- 13 (4) For taxable years prior to 2014, the taxpayer must add the amount excluded
 14 from the taxpayer's gross income for amounts received by a wrongfully
 15 incarcerated individual under section 139F of the Code for which the taxpayer
 16 took a deduction under former G.S. 105-134.6(b)(14). The purpose of this
 17 subdivision is to prevent a double benefit where federal tax law provides an
 18 income exclusion for income for which the State previously provided a
 19 deduction.
- 20 (5) The taxpayer must add the amount of gain that would be included for federal
 21 income tax purposes without regard to section 1400Z-2(b) of the Code. The
 22 adjustment made in this subsection does not result in a difference in basis of
 23 the affected assets for State and federal income tax purposes. The purpose of
 24 this subdivision is to decouple from the deferral of gains reinvested into an
 25 Opportunity Fund available under federal law.
- 26 (6) The taxpayer may deduct the amount of gain included in the taxpayer's
 27 adjusted gross income under section 1400Z-2(a) of the Code to the extent the
 28 same income was included in the taxpayer's adjusted gross income in a prior
 29 taxable year under subdivision (5) of this subsection. The purpose of this
 30 subdivision is to prevent double taxation of income the taxpayer was
 31 previously required to include in the calculation of North Carolina taxable
 32 income.
- 33 (7) The taxpayer must add the amount of gain that would be included in the
 34 taxpayer's adjusted gross income but for the step-up in basis under section
 35 1400Z-2(c) of the Code. The purpose of this subdivision is to decouple from
 36 the exclusion of gains from the sale or exchange of an investment in an
 37 Opportunity Fund available under federal law.

38"

39 **SECTION 1.4.** G.S. 105-163.1(13) reads as rewritten:

40 **"§ 105-163.1. Definitions.**

41 The following definitions apply in this Article:

42 ...

- 43 (13) Wages. – The term has the same meaning as in section 3401 of the Code
 44 ~~except it does not include the amount an employer pays an employee as~~
 45 ~~reimbursement for ordinary and necessary expenses incurred by the employee~~
 46 ~~on behalf of the employer and in the furtherance of the business of the~~
 47 ~~employer. Code."~~

48 **SECTION 1.5(a)** G.S. 105-130.5(a)(17) is repealed.

49 **SECTION 1.5(b)** G.S. 105-153.5(c)(4) is repealed.

50 **SECTION 1.5(c)** This section is effective for taxable years beginning on or after

51 January 1, 2018.

SECTION 1.6. G.S. 105-153.8(a) reads as rewritten:

"(a) Who Must File. – The following individuals must file with the Secretary an income tax return under affirmation:

(1) Every resident ~~required to file an income tax return who~~ for the taxable year has gross income under the Code that exceeds the standard deduction amount provided in G.S. 105-153.5(a)(1).

(2) Every nonresident individual who meets all of the following requirements:

a. Receives during the taxable year gross income that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

b. ~~Is required to file an income tax return for the taxable year under the Code.~~Has gross income under the Code that exceeds the applicable standard deduction amount provided in G.S. 105-153.5(a)(1).

(3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return."

SECTION 1.7.(a) G.S. 105-153.5(c)(7) reads as rewritten:

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

...

(7) The amount deducted in a prior taxable year to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for ~~the qualified higher~~ education expenses of the designated ~~beneficiary,~~ beneficiary as permitted under section 529 of the Code, unless the withdrawal ~~was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary.~~meets at least one of the following conditions:

a. The withdrawal was not subject to the additional tax imposed by section 529(c)(6) of the Code.

b. The withdrawal was rolled over to an ABLE account as defined in G.S. 147-86.70(b)."

SECTION 1.7.(b) G.S. 116-209.25 reads as rewritten:**"§ 116-209.25. Parental Savings Trust Fund.**

(a) Policy. – The General Assembly of North Carolina hereby finds and declares that encouraging parents and other interested parties to save for the ~~postsecondary~~ education expenses of eligible students is fully consistent with and furthers the long-established policy of the State to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).

(b) Parental Savings Trust Fund. – There is established a parental savings trust fund to be administered by the State Education Assistance Authority to enable qualified parents and other interested parties to save funds to meet the costs of ~~the postsecondary~~ education expenses of eligible students; students in accordance with section 529 of the Code. For purposes of this section, the term "Code" has the same meaning as defined in G.S. 105-228.90.

...."

SECTION 1.7.(c) This section is effective for taxable years beginning on or after January 1, 2018.

SECTION 1.8. Except as otherwise provided, this Part is effective when it becomes law.

PART II. BUSINESS TAX CHANGES

SECTION 2.1.(a) G.S. 105-114(b)(2) reads as rewritten:

"(2) Corporation. – A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term includes a limited liability company or a partnership that elects to be taxed as a corporation under the Code, but does not otherwise include a limited liability ~~company~~ company or a partnership."

SECTION 2.1.(b) This section is effective beginning on or after January 1, 2019, and applies to the calculation of franchise tax reported on the 2018 and later corporate income tax return.

SECTION 2.2.(a) G.S. 105-122(b) reads as rewritten:

"(b) Determination of Net Worth. – A corporation taxed under this section shall determine the total amount of its net worth on the basis of the books and records of the corporation as of the close of its income year. The net worth of a corporation is its total assets without regard to the deduction for accumulated depreciation, depletion, or amortization less its total liabilities, computed in accordance with generally accepted accounting principles as of the end of the corporation's taxable year. If the corporation does not maintain its books and records in accordance with generally accepted accounting principles, then its net worth is computed in accordance with the accounting method used by the entity for federal tax ~~purposes so long as the method fairly reflects the corporation's net worth for purposes of the tax levied by this section.~~ purposes. A corporation's net worth is subject to the following adjustments:

(1) A deduction for accumulated depreciation, depletion, and amortization as determined in accordance with the method used for federal tax purposes.

(1b) Assets for which a deduction is allowed under subdivision (1) of this subsection are valued in accordance with the method used in computing depreciation, depletion, and amortization for federal income tax purposes.

...

~~(3) A corporation may deduct the cost of treasury stock.~~

...."

SECTION 2.2.(b) This section is effective beginning on or after January 1, 2019, and applies to the calculation of franchise tax reported on the 2018 and later corporate income tax return.

SECTION 2.3. G.S. 105-130.4(I) reads as rewritten:

"(I) (1) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Notwithstanding any other provision under this Part, the receipts from any casual sale of property shall be excluded from both the numerator and the denominator of the sales factor. Where a corporation is not taxable in another state on its apportionable income but is taxable in another state only because of nonapportionable income, all sales shall be treated as having been made in this State.

(2) Sales of tangible personal property are in this State if the property is received in this State by the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all

1 transportation has been completed shall be considered as the place at which
 2 the goods are received by the purchaser. Direct delivery into this State by the
 3 taxpayer to a person or firm designated by a purchaser from within or without
 4 the State shall constitute delivery to the purchaser in this State.

5 (3) Other sales are in this State ~~if~~ any of the following occur:

- 6 a. The receipts are from real or tangible personal property located in this
 7 ~~State; or State.~~
- 8 b. The receipts are from intangible property ~~and are received from~~
 9 ~~sources to the extent the intangible property is used within this State;~~
 10 ~~or State.~~
- 11 c. The receipts are from services and the income-producing activities are
 12 in this State. For the purposes of this subdivision, an
 13 "income-producing activity" means an activity directly performed by
 14 the taxpayer or its agents for the ultimate purpose of generating the
 15 sale of the service. For purposes of this subdivision, "receipts from
 16 services" includes receipts from services sold as part of, or in
 17 connection with, the sale of tangible property located in this State."

18 **SECTION 2.4.** G.S. 105-130.5(a) reads as rewritten:

19 **"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

20 (a) The following additions to federal taxable income shall be made in determining State
 21 net income:

22 ...

23 (10) The total amounts allowed under this Chapter during the taxable year as a
 24 credit against the taxpayer's income tax. ~~This subdivision does not apply to a~~
 25 ~~credit allowed under G.S. 105-130.47.~~ A corporation that apportions part of
 26 its income to this State shall make the addition required by this subdivision
 27 after it determines the amount of its income that is apportioned and allocated
 28 to this State and shall not apply to a credit taken under this Chapter the
 29 apportionment factor used by it in determining the amount of its apportioned
 30 income.

31 ...

32 (20) ~~The amount of a donation made to a nonprofit organization or a unit of State~~
 33 ~~or local government for which a credit is claimed under G.S. 105-129.16H.~~

34"

35 **SECTION 2.5.(a)** G.S. 105-228.3 is amended by adding the following new
 36 subdivision:

37 "(1b) Foreign captive insurance company. – A captive insurance company as
 38 defined in G.S. 58-10-340(9), except that such company is not formed or
 39 licensed under the laws of this State but is formed and licensed under the laws
 40 of any jurisdiction within the United States other than this State."

41 **SECTION 2.5.(b)** G.S. 105-228.4A reads as rewritten:

42 **"§ 105-228.4A. Tax on captive insurance companies.**

43 (a) Tax Levied. – A tax is levied in this section on a captive insurance company doing
 44 business in this State. In the case of a branch captive insurance company, the tax levied in this
 45 section applies only to the branch business of the company. Two or more captive insurance
 46 companies under common ownership and control are taxed under this section as a single captive
 47 insurance company. The tax levied in this section does not apply to a foreign captive insurance
 48 company.

49 (b) Other Taxes. – A captive insurance company that is subject to the tax levied by this
 50 section and a foreign captive insurance company is ~~are~~ not subject to any of the following:

- 51 (1) Franchise taxes imposed by Article 3 of this Chapter.

- 1 (2) Income taxes imposed by Article 4 of this ~~Chapter~~Chapter, subject to the
 2 provisions of G.S. 105-130.5A.
 3 (3) Local privilege taxes or local taxes computed on the basis of gross premiums.
 4 (4) The insurance regulatory charge imposed by G.S. 58-6-25.

5"

6 **SECTION 2.5.(c)** G.S. 105-228.5(g) reads as rewritten:

7 "(g) Exemptions. – This section does not apply to any of the following:

- 8 (1) A farmers' mutual assessment fire insurance ~~companies or to company.~~
 9 (2) A fraternal ~~orders or societies that do order~~ or society that does not operate for
 10 a profit and ~~do~~does not issue policies on any person except members.
 11 (3) This section does not apply to a A captive insurance company taxed under
 12 G.S. 105-228.4A.
 13 (4) A foreign captive insurance company that is licensed in and taxed on its gross
 14 premiums in a jurisdiction within the United States other than this State."

15 **SECTION 2.6.(a)** Section 4 of S.L. 2017-151 is reenacted.

16 **SECTION 2.6.(b)** This section is effective when it becomes law and applies to
 17 taxable years beginning on or after July 1, 2018.

18 **PART III. FEDERAL DETERMINATIONS AND AMENDED RETURNS**

19 **SECTION 3.1.** G.S. 105-130.20 reads as rewritten:

20 "**§ 105-130.20. Federal ~~corrections, determinations and amended returns.~~**

21 (a) Federal Determination. – If a taxpayer's federal taxable income or a federal tax credit
 22 that is changed or corrected by the Commissioner of Internal Revenue or other officer of the
 23 United States or other competent authority, and the change or correction affects the amount of
 24 State tax payable is corrected or otherwise determined by the federal government, payable, the
 25 taxpayer must, must file an income tax return reflecting each change or correction from a federal
 26 determination within six months after being notified of the correction or final determination by
 27 the federal government, file an income tax return with the Secretary reflecting the corrected or
 28 determined taxable income each change or correction. The Secretary must propose an assessment
 29 for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The
 30 Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. ~~A taxpayer~~
 31 ~~that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits its~~
 32 ~~rights to any refund due by reason of the determination.~~ A federal determination has the same
 33 meaning as defined in G.S. 105-228.90.

34 (b) Amended Return. – The following applies to an amended return filed by a taxpayer
 35 with the Commissioner of Internal Revenue:

- 36 (1) If the amended return contains an adjustment that would increase the amount
 37 of State tax payable under this Part, then notwithstanding the provisions of
 38 G.S. 105-241.8(a), the taxpayer must file within six months thereafter an
 39 amended return with the Secretary.
 40 (2) If the amended return contains an adjustment that would decrease the amount
 41 of State tax payable under this Part, the taxpayer may file an amended return
 42 with the Secretary within the provisions of G.S. 105-241.6.

43 (c) Penalties. – A taxpayer that fails to comply with this section is subject to the penalties
 44 in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

45 **SECTION 3.2.** G.S. 105-159 reads as rewritten:

46 "**§ 105-159. Federal ~~corrections, determinations and amended returns.~~**

47 (a) Federal Determination. – If a taxpayer's adjusted gross income, filing status, personal
 48 exemptions, standard deduction, itemized deductions, or federal tax credit that are changed or
 49 corrected by the Commissioner of Internal Revenue or other officer of the United States or
 50 competent authority, and the change or correction affects the amount of State tax payable is
 51

~~corrected or otherwise determined by the federal government, payable, the taxpayer must, must file an income tax return reflecting each change or correction from a federal determination within six months after being notified of the correction or final determination by the federal government, file an income tax return with the Secretary reflecting the corrected or determined adjusted gross income or federal tax credit that affects the amount of State tax payable. each change or correction.~~ The Secretary must propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. ~~A taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination.~~ A federal determination has the same meaning as defined in G.S. 105-228.90.

(b) Amended Return. – The following applies to an amended return filed by a taxpayer with the Commissioner of Internal Revenue:

(1) If the amended return contains an adjustment that would increase the amount of State tax payable under this Part, then notwithstanding the provisions of G.S. 105-241.8(a), the taxpayer must file within six months thereafter an amended return with the Secretary.

(2) If the amended return contains an adjustment that would decrease the amount of State tax payable under this Part, the taxpayer may file an amended return with the Secretary within the provisions of G.S. 105-241.6.

(c) Penalties. – A taxpayer that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination."

SECTION 3.3. G.S. 105-160.8 reads as rewritten:

"§ 105-160.8. Federal ~~corrections, determinations.~~

For purposes of this Part, the provisions of G.S. 105-159 ~~requiring an individual to report the correction or determination of taxable income by the federal government~~ apply to fiduciaries required to file returns for estates and trusts."

SECTION 3.4. G.S. 105-163.6A reads as rewritten:

"§ 105-163.6A. Federal ~~corrections, determinations.~~

If the amount of taxes an employer is required to withhold and pay under the Code is ~~corrected or otherwise determined by the federal government, the employer must, within six months after being notified of the correction or final determination by the federal government, file a return with the Secretary reflecting the corrected or determined amount. The Secretary must propose an assessment for any additional tax due from the employer as provided in Article 9 of this Chapter. If there has been an overpayment of the tax, the Secretary must either refund the overpayment to the employer in accordance with G.S. 105-163.9 or credit the amount of the overpayment to the individual in accordance with G.S. 105-163.10. An employer who fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the determination.~~ changed or corrected, the provisions of G.S. 105-159 apply to employers, pension payers, and every other payer required to withhold taxes under this Article. Failure of an employer to comply with this section does not, however, affect an individual's right to a credit under G.S. 105-163.10."

SECTION 3.5. G.S. 105-241.8(b) is amended by adding a new subdivision to read:

"(b) Exceptions. – The exceptions to the general statute of limitations for proposing an assessment are as follows:

...

(1a) Federal amended return. – If a taxpayer files a return as a result of filing a federal amended return and the return is filed within the time required by this Subchapter, the period for proposing an assessment of any tax due is one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If the taxpayer does not file the return within the required time, the period for proposing an assessment of any tax due is

1 three years after the date the federal amended return was filed with the
2 Commissioner of Internal Revenue.

3"

4 **SECTION 3.6.** G.S. 105-241.10 reads as rewritten:

5 **"§ 105-241.10. Limit on refunds and assessments after a federal determination.**

6 The limitations in this section apply when a taxpayer files a timely return reflecting a federal
7 determination that affects the amount of State tax payable and the general statute of limitations
8 for requesting a refund or proposing an assessment of the State tax has expired. ~~A federal~~
9 ~~determination is a correction or final determination by the federal government of the amount of~~
10 ~~a federal tax due.~~ A return reflecting a federal determination is timely if it is filed within the time
11 required by G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. A federal
12 determination has the same meaning as defined in G.S. 105-228.90. The limitations are:

- 13 (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of
14 adjustments related to the federal determination.
15 (2) Assessment. – A taxpayer is liable for additional tax only if the additional tax
16 is the result of adjustments related to the federal determination. A proposed
17 assessment may not include an amount that is outside the scope of this
18 liability."

19 **SECTION 3.7.** G.S. 105-228.90(b) is amended by adding a new subdivision to read:

20 "(3a) Federal determination. – A change or correction of the amount of a federal tax
21 due arising from an audit by the Commissioner of Internal Revenue."

22 **SECTION 3.8.** This Part is effective when it becomes law and applies to federal
23 amended returns filed on or after that date.

24 **PART IV. SALES AND USE TAX CHANGES**

25 **SECTION 4.1.(a)** G.S. 105-164.3(20b) reads as rewritten:

26 **"§ 105-164.3. Definitions.**

27 The following definitions apply in this Article:

28 ...

- 29
30 (20b) Mixed transaction contract. – A contract that includes both a real property
31 contract for a capital improvement and a repair, maintenance, and installation
32 service for real property that is not related to the capital improvement."

33 **SECTION 4.1.(b)** G.S. 105-164.3, as amended by subsection (a) of this section,
34 reads as rewritten:

35 **"§ 105-164.3. Definitions.**

36 The following definitions apply in this Article:

37 ...

- 38 (2c) Capital improvement. – One or more of the following:

39 ...

- 40 e. Painting or wallpapering of real property, except where painting or
41 wallpapering is incidental to the repair, maintenance, and installation
42 ~~service.~~services.

43 ...

- 44 k. ~~Addition.~~ An addition or alteration to real property that is permanently
45 affixed or installed to real property and is not an activity listed in
46 subdivision (33l) of this section as ~~a~~ repair, maintenance, and
47 installation ~~service.~~services.

48 ...

- 49 (11d) Freestanding appliance. – A machine commonly thought of as an appliance
50 operated by gas or electric current. Examples include ~~installation of a~~

- 1 dishwasher, washing machine, clothes dryer, refrigerator, freezer, microwave,
2 and range, regardless of whether the range is slide-in or drop-in.
3 ...
- 4 (20b) Mixed transaction contract. – A contract that includes both a real property
5 contract for a capital improvement and a repair, maintenance, and installation
6 ~~service~~ services for real property that ~~is~~ are not related to the capital
7 improvement.
8 ...
- 9 (24) Net taxable sales. – The gross sales or gross receipts of ~~the business of a~~
10 retailer or another person taxed under this Article after deducting exempt sales
11 and nontaxable sales.
12 ...
- 13 (33c) Qualifying datacenter. – A datacenter that satisfies each of the following
14 conditions:
15 a. The datacenter certifies that it satisfies or will satisfy the wage
16 standard for the development tier area or zone in which the datacenter
17 is located. There is no wage standard for a development tier one area.
18 If an urban progress zone or an agrarian growth zone is not in a
19 development tier one area, then the wage standard for that zone is an
20 average weekly wage that is at least equal to ninety percent (90%) of
21 the lesser of the average wage for all insured private employers in the
22 State and the average wage for all insured private employers in the
23 county in which the datacenter is located. The wage standard for a
24 development tier two area or a development tier three area is an
25 average weekly wage that is at least equal to one hundred ten percent
26 (110%) of the lesser of the average wage for all insured private
27 employers in the State and ninety percent (90%) of the average wage
28 for all insured private employers in the county in which the datacenter
29 is located.
30 b. The Secretary of Commerce has made a written determination that at
31 least seventy-five million dollars (\$75,000,000) in private funds has
32 been or will be invested by one or more owners, users, or tenants of
33 the datacenter within five years of the date the owner, user, or tenant
34 of the datacenter makes its first real or tangible property investment in
35 the datacenter on or after January 1, 2012. Investments in real or
36 tangible property in the datacenter made prior to January 1, 2012, may
37 not be included in the investment required by this subdivision.
38 c. The datacenter certifies that it provides or will provide health
39 insurance for all of its full-time ~~employees~~ employees as long as the
40 datacenter operates. The datacenter provides health insurance if it pays
41 or will pay at least fifty percent (50%) of the premiums for health care
42 coverage that equals or exceeds the minimum provisions of the basic
43 health care plan of coverage recommended by the Small Employer
44 Carrier Committee pursuant to G.S. 58-50-125.
45 ...
- 46 (33i) Remodeling. – A transaction comprised of multiple services performed by one
47 or more persons to restore, improve, alter, or update real property that may
48 otherwise be subject to tax as repair, maintenance, and installation services if
49 separately performed. The term includes a transaction where the internal
50 structure or design of one or more rooms or areas within a room or building
51 are substantially changed. The term does not include a single service that is

1 included in repair, maintenance, and installation ~~service~~. services. The term
 2 does not include a transaction where the true purpose is a repair, maintenance,
 3 and installation ~~service~~ services no matter that another service included in
 4 repair, maintenance, and installation ~~service~~ services is performed that is
 5 incidental to the true purpose of the transaction; examples include repair of
 6 sheetrock that includes applying paint, replacement of cabinets that includes
 7 installation of caulk or molding, and the installation of hardwood floors that
 8 includes installation of shoe molding.

9 ...
 10 (33l) Repair, maintenance, and installation services. – The term includes the
 11 activities listed in this subdivision and applies to tangible personal property,
 12 motor vehicle, digital property, and real property. The term does not include
 13 services used to fulfill a real property contract taxed in accordance with
 14 G.S. 105-164.4H:

- 15 ...
- 16 d. To install, apply, connect, adjust, or set into position tangible personal
 17 ~~property, digital property, or a motor vehicle.~~ property or digital
 18 property. The term includes floor refinishing and the installation of
 19 carpet, flooring, floor coverings, windows, doors, cabinets,
 20 countertops, and other installations where the item being installed may
 21 replace a similar existing item. The replacement of more than one of a
 22 like-kind item, such as replacing one or more windows, is a ~~single~~
 23 repair, maintenance, and installation ~~service~~. services. The term does
 24 not include an installation defined as a capital improvement under
 25 subdivision (2c)d. of this ~~section~~ section and substantiated as a capital
 26 improvement under G.S. 105-164.4H(a1).
 - 27 e. To inspect or monitor property or install, apply, or connect tangible
 28 personal property or digital property on a motor vehicle, but does not
 29 ~~include security or similar monitoring services for real~~
 30 ~~property~~ vehicle or adjust a motor vehicle.

31 ...
 32 (36) Sale or selling. – The transfer for consideration of title, license to use or
 33 consume, or possession of tangible personal property or digital property or the
 34 performance for consideration of a service. The transfer or performance may
 35 be conditional or in any manner or by any means. The term ~~includes~~ applies
 36 to the following:

- 37 a. Fabrication of tangible personal property for consumers by persons
 38 engaged in business who furnish either directly or indirectly the
 39 materials used in the fabrication work.
- 40 b. Furnishing or preparing tangible personal property consumed on the
 41 premises of the person furnishing or preparing the property or
 42 consumed at the place at which the property is furnished or prepared.
- 43 c. A transaction in which the possession of the property is transferred but
 44 the seller retains title or security for the payment of the consideration.
- 45 d. A lease or rental.
- 46 e. Transfer of a digital code.
- 47 f. An accommodation.
- 48 g. A service contract.
- 49 h. Any other item subject to tax under this Article.

50 (37) Sales price. – The total amount or consideration for which tangible personal
 51 property, digital property, or services are sold, leased, or rented. The

consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

a. The term includes all of the following:

...

7. Credit for trade-in. The amount of any credit for trade-in is not a reduction of the sales price.

8. ~~Discounts~~ The amount of any discounts that are reimbursable by a third party and can be determined at the time of sale through any of the following:

I. Presentation by the consumer of a coupon or other documentation.

II. Identification of the consumer as a member of a group eligible for a discount.

III. The invoice the retailer gives the consumer.

b. The term does not include any of the following:

...

(38b) Service contract. – A contract where the obligor under the contract agrees to maintain, monitor, inspect, repair, or provide another service included in the definition of repair, maintenance, and installation ~~service~~ services to digital property, tangible personal property, or real property for a period of time or some other defined measure. The term does not include a single service included in repair, maintenance, or installation ~~service~~ services, but does include a contract where the obligor may provide a service included in the definition of repair, maintenance, and installation services as a condition of the contract. The term includes a service contract for a pool, fish tank, or similar aquatic feature and a home warranty. Examples include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair agreement, or a similar agreement or contract.

...

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~May 11, 2017~~ May 3, 2018.

...

(49) Use. – The exercise of any right, power, or dominion whatsoever over tangible personal property, digital property, or a service by the purchaser of the property or service. The term includes withdrawal from storage, distribution, installation, affixation to real or personal property, and exhaustion or consumption of the property or service by the owner or purchaser. The term does not include ~~the following:~~

a. ~~A sale of property~~ tangible personal property, digital property, or a service in the regular course of business.

b. ~~A purchaser's use of tangible personal property or digital property in any of the circumstances that would exclude the storage of the property from the definition of "storage" in subdivision (44) of this section.~~

...."

SECTION 4.1.(c) Subsection (a) of this section is effective retroactively to January 1, 2017. If the amendment to G.S. 105-164.3(20), as enacted by subsection (a) of this section, increases sales and use tax liability, then it becomes effective when this act becomes law.

SECTION 4.2. G.S. 105-164.4(a) reads as rewritten:

"§ 105-164.4. Tax imposed on retailers and certain facilitators.

1 (a) A privilege tax is imposed on a retailer engaged in business in the State at the
2 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The
3 general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as follows:

4 (1) The general rate of tax applies to the sales price of each item or article of
5 tangible personal property that is sold at retail and is not subject to tax under
6 another subdivision in this section. A sale of a freestanding appliance is a retail
7 sale of tangible personal property. This subdivision applies to the sales price
8 of or gross receipts derived from repair, maintenance, and installation services
9 to tangible personal property. This subdivision does not apply to repair,
10 maintenance, and installation services for real property; these services are
11 taxable under subdivision (16) of this subsection.

12 (1a) The general rate applies to the sales price of each of the following items sold
13 at retail, including all accessories attached to the item when it is delivered to
14 the ~~purchaser~~; purchaser, and to the sales price of or the gross receipts derived
15 from repair, maintenance, and installation services for each of the following
16 items. The items taxable under this subdivision are as follows:

17 a. A manufactured home.

18 b. A modular home. The sale of a modular home to a modular
19 homebuilder is considered a retail sale, no matter that the modular
20 home may be used to fulfill a real property contract. A person who
21 sells a modular home at retail is allowed a credit against the tax
22 imposed by this subdivision for sales or use tax paid to another state
23 on tangible personal property incorporated in the modular home. The
24 retail sale of a modular home occurs when a modular home
25 manufacturer sells a modular home to a modular homebuilder or
26 directly to the end user of the modular home.

27 c. An aircraft. The maximum tax is two thousand five hundred dollars
28 (\$2,500) per article. The maximum tax does not apply to the sales price
29 of or gross receipts derived from repair, maintenance, and installation
30 services, but the use tax exemption in G.S. 105-164.27A(a3) may
31 apply to these services.

32 d. A qualified jet engine.

33 (1b) The rate of three percent (3%) applies to the sales price of each boat sold at
34 retail, including all accessories attached to the boat when it is delivered to the
35 purchaser. The maximum tax is one thousand five hundred dollars (\$1,500)
36 per article. The maximum tax does not apply to the sales price of or gross
37 receipts derived from the sales price of or gross receipts derived from repair,
38 maintenance, and installation services, but the use tax exemption in
39 G.S. 105-164.27A(a3) may apply to these services.

40 ...

41 (6b) The general rate applies to the sales price of digital property that is sold at
42 retail and that is listed in this subdivision, is delivered or accessed
43 electronically, is not considered tangible personal property, and would be
44 taxable under this Article if sold in a tangible medium. The tax applies
45 regardless of whether the purchaser of the item has a right to use it
46 permanently or to use it without making continued payments. This subdivision
47 applies to the sales price of or gross receipts derived from repair, maintenance,
48 and installation services to digital property. The tax does not apply to a service
49 that is taxed under another subdivision of this subsection or to an information
50 service. The following property is subject to tax under this subdivision:

51 ...

(16) The general rate applies to the sales price of or the gross receipts derived from repair, maintenance, and installation services for real property and generally includes any tangible personal property or digital property that becomes a part of or is applied to a purchaser's property. A mixed transaction contract and a real property contract are taxed in accordance with G.S. 105-164.4H."

SECTION 4.3. G.S. 105-164.4B reads as rewritten:

"§ 105-164.4B. Sourcing principles.

(a) General Principles. – The following principles apply in determining where to source the sale of a ~~product~~ product for the seller's purpose and do not alter the application of the tax imposed under G.S. 105-164.6. Except as otherwise provided in this section, a service is sourced where the purchaser can potentially first make use of the service. These principles apply regardless of the nature of the product, except as otherwise noted in this section:

...

(i) Computer Software Renewal. – The gross receipts derived from the renewal of a service contract for prewritten software is generally sourced pursuant to subdivision (a) of this section. However, sourcing the renewal to an address where the purchaser received the underlying prewritten software does not constitute bad faith provided the seller has not received information from the purchaser that indicates a change in the location of the underlying software."

SECTION 4.4. G.S. 105-164.4G(e) reads as rewritten:

"(e) Exceptions. – The tax imposed by this section does not apply to the following:

- (1) An amount paid solely for the right to ~~participate~~ participate, other than to be a spectator, in sporting activities. Examples of these types of charges include bowling fees, golf green fees, and gym memberships.
- (2) Tuition, registration fees, or charges to attend instructional seminars, conferences, or workshops for educational purposes.
- (3) A political contribution.
- (4) A charge for lifetime seat rights, lease, or rental of a suite or box for an entertainment activity, provided the charge is separately stated on an invoice or similar billing document given to the purchaser at the time of sale.
- (5) An amount paid solely for transportation.
- (6) An amount paid for the right to participate, other than to be a spectator, in the following activities:
 - a. Rock climbing, skating, skiing, snowboarding, sledding, zip lining, or other similar activities.
 - b. Instruction classes related to the items included in sub-subdivision a. of this subdivision.
 - c. Riding on a carriage, boat, train, plane, horse, chairlift, or other similar rides.
 - d. Amusement rides, including a waterslide."

SECTION 4.5. G.S. 105-164.4I reads as rewritten:

"§ 105-164.4I. Service contracts.

...

(e) ~~Exceptions.—The tax imposed by this section does not apply to any of the following:~~

- (1) ~~A security or similar monitoring contract for real property.~~
- (2) ~~A contract to provide a certified operator for a wastewater system.~~

...."

SECTION 4.6.(a) G.S. 105-164.6(b) reads as rewritten:

"(b) Liability. – The tax imposed by this section is payable by the person who purchases, leases, or rents tangible personal property or digital property or who purchases a service. If the property purchased becomes a part of real property in the State, the real property contractor, the

1 retailer-contractor, the subcontractor, the lessee, and the owner are jointly and severally liable
 2 for the tax, except as provided in ~~G.S. 105-164.4H(a)~~G.S. 105-164.4H(a1) regarding receipt of
 3 an affidavit of capital improvement. The liability of a real property contractor, a
 4 retailer-contractor, a subcontractor, a lessee, or an owner who did not purchase the property is
 5 satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

6 **SECTION 4.6.(b)** This section is effective retroactively to January 1, 2017, and
 7 applies to sales and purchases made on or after that date.

8 **SECTION 4.7.(a)** Part 2 of Article 5 of Chapter 105 of the General Statutes is
 9 amended by adding a new section to read:

10 **"§ 105-164.11B. Recover sales tax paid.**

11 A retailer who pays sales and use tax on property or services and subsequently resells the
 12 property or services at retail, without the property or service being used by the retailer, may
 13 recover the sales or use tax originally paid to a seller as provided in this section. A retailer entitled
 14 to recover tax under this section may reduce taxable receipts by the taxable amount of the
 15 purchase price of the property or services resold for the period in which the retail sale occurs. A
 16 recovery of tax allowed under this section is not an overpayment of tax and, where such recovery
 17 is taken, a refund of the tax originally paid should not be requested pursuant to the authority
 18 under G.S. 105-164.11. Any amount for tax recovered under this section in excess of tax due for
 19 a reporting period under this Article is not subject to refund. Any tax recovered under this section
 20 may be carried forward to a subsequent reporting period and taken as an adjustment to taxable
 21 receipts. The records of the retailer must clearly reflect and support the adjustment to taxable
 22 receipts for the period in which the adjustment is made."

23 **SECTION 4.7.(b)** G.S. 105-164.11(b) reads as rewritten:

24 "(b) Refund Procedures First Remedy. – The first course of remedy available to purchasers
 25 seeking a refund of over-collected sales or use taxes from the seller are the customer refund
 26 procedures provided in this Chapter or otherwise provided by administrative rule, bulletin, or
 27 directive on the law issued by the Secretary. Where a person recovers tax under
 28 G.S. 105-164.11B, a refund or credit under this section is not allowed by the Secretary."

29 **SECTION 4.8.** G.S. 105-164.13 reads as rewritten:

30 **"§ 105-164.13. Retail sales and use tax.**

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

34 ...

35 (5e) Sales of mill machinery or mill machinery parts or accessories to any of the
 36 following persons listed in this subdivision. For purposes of this subdivision,
 37 the term "accessories" does not include electricity. The persons are:

- 38 a. A manufacturing industry or plant. A manufacturing industry or plant
 39 does not include (i) a delicatessen, cafe, cafeteria, restaurant, or
 40 another similar retailer that is principally engaged in the retail sale of
 41 foods prepared by it for consumption on or off its premises or (ii) a
 42 production company.
 43 b. A contractor or subcontractor if the purchase is for use in the
 44 performance of a contract with a manufacturing industry or plant.
 45 c. A subcontractor if the purchase is for use in the performance of a
 46 contract with a general contractor that has a contract with a
 47 manufacturing industry or plant.

48 ...

49 (9) Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints,
 50 parts, accessories, and supplies sold to any of the following:

- 1 a. The holder of a standard commercial fishing license issued under
- 2 G.S. 113-168.2 for principal use in commercial fishing operations.
- 3 b. The holder of a shellfish license issued under G.S. 113-169.2 for
- 4 principal use in commercial shellfishing operations.
- 5 c. The operator of a for-hire ~~boat, vessel,~~ as defined in G.S. 113-174, for
- 6 principal use in the commercial use of the boat.
- 7 ...
- 8 (13) All of the ~~following drugs, drugs~~ listed in this subdivision, including their
- 9 packaging materials and any instructions or information about the drugs
- 10 included in the package with ~~them:them.~~ This subdivision does not apply to
- 11 pet food or feed for animals. The drugs exempt under this subdivision are as
- 12 follows:
- 13 a. Drugs required by federal law to be dispensed only on prescription.
- 14 b. Over-the-counter drugs sold on prescription. This sub-subdivision
- 15 does not apply to purchases of over-the-counter drugs by hospitals and
- 16 other medical facilities for use and treatment of patients.
- 17 c. Insulin.
- 18 ...
- 19 (15) Accounts of purchasers, representing taxable sales, on which the tax imposed
- 20 by this Article has been paid, that are found to be worthless and actually
- 21 charged off for income tax purposes may, at corresponding periods, be
- 22 deducted from gross sales. In the case of a municipality that sells electricity,
- 23 the account may be deducted if it meets all the conditions for charge-off that
- 24 would apply if the municipality were subject to income tax. Any accounts
- 25 deducted pursuant to this subdivision must be added to gross sales if
- 26 afterwards collected. For purposes of this exemption, a worthless account of
- 27 a purchaser is a "bad debt" as allowed under section 166 of the Code. The
- 28 amount calculated pursuant to section 166 of the Code must be adjusted to
- 29 exclude financing charges or interest, sales or use taxes charged on the sales
- 30 price, uncollectible amounts on property that remains in the possession of the
- 31 seller until the full purchase price is paid, expenses incurred in attempting to
- 32 collect any debt, and repossessed property.
- 33 ...
- 34 (61a) The sales price of or the gross receipts derived from the repair, maintenance,
- 35 and installation services and service contracts listed in this subdivision are
- 36 exempt from tax. Except as otherwise provided in this subdivision, property
- 37 and services used to fulfill either a repair, maintenance, or installation service
- 38 or a service contract exempt from tax under this subdivision are taxable. The
- 39 list of repair, maintenance, and installation services and service contracts
- 40 exempt from tax under this subdivision is as follows:
- 41 a. ~~An A service and a service contract for an~~ item exempt from tax under
- 42 this Article. Article, except as otherwise provided in this subdivision.
- 43 Property and services used to fulfill a service or service contract
- 44 exempt under this sub-subdivision are exempt from tax under this
- 45 Article. This exemption does not apply to water for a pool, fish tank,
- 46 or similar aquatic feature or to a motor vehicle, except as provided
- 47 under subdivision (62a) of this section. section and fees under
- 48 sub-subdivision b. of this subdivision.
- 49 ...
- 50 p. A security or similar monitoring contract for real property. The
- 51 exemption provided in this subdivision does not apply to charges for

1 repair, maintenance, and installation services to repair security, alarm,
 2 and other similar monitoring systems for real property.

3 q. A contract to provide a certified operator for a wastewater system.

4 ...

5 (70) Gross receipts derived from a rental of an accommodation are exempt as
 6 provided in G.S. 105-164.4F."

7 **SECTION 4.9.(a)** G.S. 105-164.13E is amended by adding a new subsection to read:

8 "**§ 105-164.13E. Exemption for farmers.**

9 (a) Exemption. – A qualifying farmer is a person who has an annual income from farming
 10 operations for the preceding taxable year of ten thousand dollars (\$10,000) or more or who has
 11 an average annual income from farming operations for the three preceding taxable years of ten
 12 thousand dollars (\$10,000) or more. For purposes of this section, the term "income from farming
 13 operations" means sales plus any other amounts treated as gross income under the Code from
 14 farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg
 15 producer, and a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined
 16 in G.S. 106-758. G.S. 106-758, and a person who boards horses. A qualifying farmer may apply
 17 to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption
 18 certificate expires when a person fails to meet the income threshold for three consecutive taxable
 19 years or ceases to engage in farming operations, whichever comes first.

20 ~~The following tangible personal property, digital property, and services are exempt from sales~~
 21 ~~and use tax if~~ Except as otherwise provided in this section, the items exempt under this section
 22 must be purchased by a qualifying farmer and for use used by the farmer in farming operations.
 23 For purposes of this section, an item is used by a farmer for farming operations if it is used for
 24 the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy
 25 products, eggs, or animals; or animals. The following tangible personal property and services that
 26 may be exempt from sales and use tax under this section are as follows:

27 ...

28 (c1) Services for Farmer. – A qualifying item listed in subdivision (6) of subsection (a) of
 29 this section purchased to fulfill a service for a person who holds a qualifying farmer exemption
 30 certificate or a conditional farmer exemption certificate issued under G.S. 105-164.28A is
 31 exempt from sales and use tax to the same extent as if purchased directly by the person who holds
 32 the exemption certificate. A person that purchases one of the items allowed an exemption under
 33 this subsection must provide an exemption certificate to the retailer that includes the name of the
 34 purchaser and an exemption number issued to the purchaser by the Department pursuant to
 35 G.S. 105-164.28A. A person that purchases an item exempt from tax pursuant to this subsection
 36 must maintain records to substantiate that an item is used to provide a service for a person who
 37 holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate.

38"

39 **SECTION 4.9.(b)** This section is effective retroactively to July 1, 2014. A person
 40 who paid sales and use tax on an item exempt from sales and use tax pursuant to
 41 G.S. 105-164.13E, as enacted by this section, may apply to the Department of Revenue for a
 42 refund of any excess tax paid to the extent the refund is the result of the change in the law enacted
 43 by this section. A request for a refund must be made on or before October 1, 2018. A request for
 44 a refund received after this date is barred and the provisions of G.S. 105-164.11 do not apply.

45 **SECTION 4.10.** G.S. 105-164.14(a) reads as rewritten:

46 "(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with this
 47 section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars
 48 and locomotives, and fuel, lubricants, repair parts, accessories, service contracts, and repair,
 49 maintenance, and installation services for a motor vehicle, railroad car, locomotive, or airplane
 50 the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons or
 51 property in interstate commerce for compensation. The Secretary shall prescribe the periods of

1 time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may
2 be claimed, and shall prescribe the time within which, following these periods, an application for
3 refund may be made.

4 An applicant for refund shall furnish the following information and any proof of the
5 information required by the Secretary:

- 6 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts,
7 accessories, service contracts, and repair, maintenance, and installation
8 services purchased by the applicant inside or outside this State during the
9 refund period.
- 10 (2) The purchase price of the taxable items listed in subdivision (1) of this
11 subsection. For purposes of this subdivision, the term "taxable" is based on
12 the imposition of tax on the items and services in the State.
- 13 (3) The sales and use taxes paid in this State on the listed items.
- 14 (4) The number of miles the applicant's motor vehicles, railroad cars,
15 locomotives, and airplanes were operated both inside and outside this State
16 during the refund period. Airplane miles are not in this State if the airplane
17 does not depart or land in this State.
- 18 (5) Any other information required by the Secretary.

19 For each applicant, the Secretary shall compute the amount to be refunded as follows. First,
20 the Secretary shall determine the mileage ratio. The numerator of the mileage ratio is the number
21 of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes in
22 this State during the refund period. The denominator of the mileage ratio is the number of miles
23 the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes both inside
24 and outside this State during the refund period. Second, the Secretary shall determine the
25 applicant's proportional liability for the refund period by multiplying this mileage ratio by the
26 purchase price of the items identified in subdivision (1) of this subsection and then multiplying
27 the resulting product by the tax rate that would have applied to the items if they had all been
28 purchased in this State. Third, the Secretary shall refund to each applicant the excess of the
29 amount of sales and use taxes the applicant paid in this State during the refund period on these
30 items over the applicant's proportional liability for the refund period."

31 **SECTION 4.11.** G.S. 105-164.15A(b) reads as rewritten:

32 "(b) Combined General Rate Items. – The effective date of a rate change for an item that
33 is taxable under this Article at the combined general rate is administered as follows:
34"

35 **SECTION 4.12.** G.S. 105-164.19 reads as rewritten:

36 "**§ 105-164.19. Extension of time for making returns and payment.**

37 The Secretary for good cause may extend the time for filing any return under the provisions
38 of this Article and may grant additional time within which to file the return ~~as he may deem~~
39 ~~proper, but the time for filing any return shall not be extended for more than 30 days after the~~
40 ~~regular due date of the return. If the time for filing a return is extended, interest accrues at the~~
41 ~~rate established pursuant to G.S. 105-241.21 from the time the return was due to be filed to the~~
42 ~~date of payment and pay the tax due pursuant to G.S. 105-263(b)."~~

43 **SECTION 4.13.** G.S. 105-164.27A(a) reads as rewritten:

44 "(a) General. – A general direct pay permit authorizes its holder to purchase certain
45 tangible personal property, digital property, or service without paying tax to the seller and
46 authorizes the seller to not collect any tax on a sale to the permit holder. A general direct pay
47 permit may not be used for purposes identified in subsections (a1), (a2), (a3), or (b) of this
48 section. A person who purchases an item under a direct pay permit issued under this subsection
49 is liable for use tax due on the purchase. The tax is payable when the property is placed in use or
50 the service is received. A direct pay permit issued under this subsection does not apply to taxes

1 imposed under G.S. 105-164.4 on sales of ~~electricity~~ electricity, piped natural gas, video
 2 programming, spirituous liquor, or the gross receipts derived from rentals of accommodations.

3 A person who purchases an item for storage, use, or consumption in this State whose tax
 4 status cannot be determined at the time of the purchase because of one of the reasons listed below
 5 may apply to the Secretary for a general direct pay permit:

- 6 (1) The place of business where the item will be stored, used, or consumed in the
 7 State is not known at the time of the purchase and a different tax consequence
 8 applies depending on where the item is ~~used~~ used in the State.
 9 (2) The manner in which the item will be stored, used, or consumed in the State
 10 is not known at the time of the purchase and one or more of the potential uses
 11 is taxable but others are not ~~taxable~~ taxable in the State."

12 **SECTION 4.14.** G.S. 105-164.32 reads as rewritten:

13 **"§ 105-164.32. Incorrect returns; estimate.**

14 If a retailer, a wholesale ~~merchant~~ merchant, a facilitator, or a consumer fails to file a return
 15 and pay the tax due under this Article or files a grossly incorrect or false or fraudulent return, the
 16 Secretary must estimate the tax due and assess the retailer, the wholesale merchant, the facilitator,
 17 or the consumer based on the estimate."

18 **SECTION 4.15.** G.S. 105-244.3(a) reads as rewritten:

19 "(a) Grace Period. – The Department shall take no action to assess any tax due for a filing
 20 period beginning on or after March 1, 2016, and ending ~~before~~ prior to January 1, ~~2018, 2019,~~ if
 21 one or more of the conditions of this subsection apply and the retailer did not receive specific
 22 written advice from the Secretary for the transactions at issue for the laws in effect for the
 23 applicable periods. Except as otherwise provided, this subsection also applies to use tax liability
 24 imposed on a purchaser under G.S. 105-164.6. The conditions are as follows:

- 25 (1) A retailer failed to charge sales tax due on separately stated installation
 26 charges that are part of the sales price of tangible personal property or digital
 27 property sold at retail.
 28 (2) A person failed to properly classify themselves as a retailer in retail trade for
 29 the period beginning March 1, 2016, and ending December 31, 2016, and did
 30 not charge sales tax on all retail transactions but rather treated some
 31 transactions as real property contracts in error for sales and use tax purposes.
 32 This subdivision does not prohibit the Secretary from assessing use tax on
 33 purchases used to fulfill a transaction erroneously treated as a real property
 34 contract.
 35 (3) A person treated a transaction as a real property contract in error and did not
 36 collect sales tax on the transaction as a retail sale. This subdivision does not
 37 prohibit the Secretary from assessing use tax on purchases used to fulfill a
 38 transaction erroneously treated as a real property contract.
 39 (4) A person failed to collect sales tax on the sales price of a service contract for
 40 one or more components, systems, or accessories for a motor vehicle on or
 41 after March 1, 2016, and prior to January 1, 2017, where the contract was sold
 42 by a motor vehicle dealer, a motor vehicle service agreement company, or a
 43 motor vehicle dealer on behalf of a motor vehicle service agreement company.
 44 (5) A person failed to collect sales tax on the retail sale of a service contract for
 45 tangible personal property that becomes a part of or is affixed to real property.
 46 (6) A person failed to collect sales tax on the retail sale of a service contract for a
 47 pool, a fish tank, or similar aquatic feature on or after January 1, 2017, and
 48 prior to January 1, ~~2018, 2019,~~ provided the person paid tax on any purchases
 49 used to fulfill the service contract.
 50 (7) A person failed to collect sales tax on the sales price of or the gross receipts
 51 derived from the retail sale of a home warranty on or after January 1, 2017,

1 and prior to January 1, ~~2018, 2019~~, provided the warranty includes coverage
2 for real property.

3 (8) A person failed to collect sales tax on the taxable portion of a mixed service
4 contract for repair, maintenance, and installation services that exceeds ten
5 percent (10%) for a transaction prior to January 1, 2017, on or after January 1,
6 2017, and prior to January 1, 2019. This subdivision does not prohibit the
7 Secretary from assessing use tax on purchases used to fulfill a mixed contract.

8 (8a) A person failed to collect sales tax on the taxable portion of a mixed
9 transaction contract that exceeds twenty-five percent (25%) for a transaction
10 on or after January 1, 2017, and prior to January 1, 2019. This subdivision
11 does not prohibit the Secretary from assessing use tax on purchases used to
12 fulfill a mixed transaction contract.

13 (8b) A person failed to collect sales tax on the taxable portion of a bundled
14 transaction that included a contract for two more services, one of which was
15 subject to tax and one of which was not subject to tax, for a transaction on or
16 after March 1, 2016, and prior to January 1, 2017.

17 (9) A person treats a transaction as a real property contract for remodeling instead
18 of the retail sale of repair, maintenance, and installation services sold at retail
19 prior to January 1, ~~2018, 2019~~. This subdivision does not prohibit the
20 Secretary from assessing use tax on purchases used to fulfill the transaction.

21 (10) A person failed to collect sales tax on repair, maintenance, and installation
22 services for tangible personal property and digital property."

23 **SECTION 4.16.** G.S. 105-187.52(c) reads as rewritten:

24 "(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this
25 Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or
26 repair tangible personal property pursuant to a service contract exempt from tax under
27 ~~G.S. 105-164.4I(b)(4)~~. G.S. 105-164.13(61a)a."

28 **SECTION 4.17.** G.S. 105-164.4H(a1) reads as rewritten:

29 "(a1) Substantiation. – Generally, services to real property are retail sales of or the gross
30 receipts derived ~~from, from~~ repair, maintenance, and installation services and subject to tax in
31 accordance with G.S. 105-164.4(a)(16), unless a person substantiates that a transaction is subject
32 to tax as a real property contract in accordance with subsection (a) of this section, subject to tax
33 as a mixed transaction in accordance with subsection (d) of this section, or the transaction is not
34 subject to tax. A person may substantiate that a transaction is a real property contract or a mixed
35 transaction by records that establish the transaction is a real property contract or by receipt of an
36 affidavit of capital improvement. The receipt of an affidavit of capital improvement, absent fraud
37 or other egregious activities, establishes that the subcontractor or other person receiving the
38 affidavit should treat the transaction as a capital improvement, and the transaction is subject to
39 tax in accordance with subsection (a) of this section. A person that issues an affidavit of capital
40 improvement is liable for any additional tax due on the transaction, in excess of tax paid on
41 related purchases under subsection (a) of this section, if it is determined that the transaction is
42 not a capital improvement but rather the transaction is subject to tax as a retail sale. A person
43 who receives an affidavit of capital improvement from another person, absent fraud or other
44 egregious activities, is not liable for any additional tax on the gross receipts from the transaction
45 if it is determined that the transaction is not a capital improvement.

46 The Secretary may establish guidelines for transactions where an affidavit of capital
47 improvement is not required, but rather a person may establish by records that such transactions
48 are subject to tax in accordance with subsection (a) of this section."

49 **SECTION 4.18.** G.S. 105-164.22 reads as rewritten:

50 "§ 105-164.22. Record-keeping requirements, inspection authority, and effect of failure to
51 keep records.

1 Retailers, wholesale merchants, and consumers must keep records that establish their tax
2 liability under this Article. The Secretary or a person designated by the Secretary may inspect
3 these records at any reasonable time during the day.

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

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

12 A consumer's records must include an invoice or other statement of the purchase price of an
13 item the consumer purchased from inside or outside the State. Failure of the consumer to keep
14 these records subjects the consumer to liability for tax on the purchase price of the item, as
15 determined by the Secretary."
16

17 PART V. EXCISE TAX CHANGES

18 **SECTION 5.1.** G.S. 105-113.9(2) reads as rewritten:

19 "(2) The sale of cigarettes to a nonresident ~~wholesaler or retailer registered through~~
20 ~~the Secretary~~ purchaser who has no place of business in North Carolina and
21 who purchases the cigarettes for the purposes of resale not within this State
22 and where the cigarettes are delivered to the purchaser at the business location
23 in North Carolina of the distributor who is also licensed as a distributor under
24 the laws of the state of the nonresident purchaser."

25 **SECTION 5.2.** G.S. 105-113.36 reads as rewritten:

26 "**§ 105-113.36. Wholesale dealer and retail dealer must obtain license.**

27 A wholesale dealer shall obtain for each place of business a continuing tobacco products
28 license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail dealer shall
29 obtain for each place of business a continuing tobacco products license and shall pay a tax of ten
30 dollars (\$10.00) for the license. A "place of business" is a place where a wholesale dealer ~~or~~
31 ~~where a retail dealer~~ makes tobacco products other than cigarettes or a wholesale dealer or a retail
32 dealer receives or stores non-tax-paid tobacco products other than cigarettes."

33 **SECTION 5.3.(a)** Part 5 of Article 2C of Chapter 105 of the General Statutes is
34 amended by adding a new section to read:

35 "**§ 105-113.83A. Registration and discontinuance requirements; penalties.**

36 (a) Registration Required. – A person who holds a wine shipper permit issued under
37 G.S. 18B-1001.1 or one or more of the following ABC permits issued under Article 11 of Chapter
38 18B of the General Statutes must register with the Secretary:

- 39 (1) Unfortified winery.
- 40 (2) Fortified winery.
- 41 (3) Brewery.
- 42 (4) Distillery.
- 43 (5) Wine importer.
- 44 (6) Wine wholesaler.
- 45 (7) Malt beverages importer.
- 46 (8) Malt beverages wholesaler.
- 47 (9) Nonresident malt beverage vendor.
- 48 (10) Nonresident wine vendor.
- 49 (11) Wine Producer.

1 (b) Registration Form. – Registration must be in a form required by the Secretary and
2 include all information requested. If a permittee fails to register, the Secretary must notify the
3 ABC Commission of the violation.

4 (c) Discontinuance of Authorized Activities. – A permittee required to be registered, who
5 changes ownership or stops engaging in the activities authorized by an issued ABC permit, must
6 notify the Secretary in writing of the change. The permittee is responsible for maintaining a bond
7 or irrevocable letter of credit as required by G.S. 105-113.86 and submitting all returns and the
8 payment of all taxes for which the permittee is liable under this Article while the issued ABC
9 permit is active.

10 (d) Penalty. – The Secretary must notify the ABC Commission when a permittee required
11 to register is not eligible to hold an ABC permit for failure to satisfy G.S. 18B-900(a)(8). Upon
12 notification, the ABC Commission must impose any penalty permitted under G.S. 18B-104."

13 **SECTION 5.3.(b)** This section becomes effective July 1, 2018, and permittees must
14 register in accordance with this section on or before December 1, 2018.

15 **SECTION 5.4.** G.S. 105-113.86(b) reads as rewritten:

16 "(b) Nonresident Vendors. – The Secretary may require the holder of a nonresident vendor
17 ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The
18 bond ~~shall~~ must be conditioned on compliance with this Article, ~~shall be payable to the State,~~
19 ~~shall be State~~ in a form acceptable to the Secretary, and ~~shall be secured by a corporate surety or~~
20 ~~by a pledge of obligations of the federal government, the State, or a political subdivision of the~~
21 ~~State surety."~~

22 **SECTION 5.5.** G.S. 105-259(b)(50) reads as rewritten:

23 "(50) To provide public access to a list containing the ~~name name,~~ physical address,
24 and account number of entities licensed under Article 2A of this Chapter to
25 aid in the administration of the tobacco products tax."

26 **SECTION 5.6.** G.S. 105-449.80(a) reads as rewritten:

27 "(a) Rate. – For the period that begins on January 1, 2016, and ends on June 30, 2016, the
28 motor fuel excise tax rate is a flat rate of thirty-five cents (35¢) per gallon. For the period that
29 begins on July 1, 2016, and ends on December 31, 2016, the motor fuel excise tax rate is a flat
30 rate of thirty-four cents (34¢) per gallon. For the calendar years beginning on January 1, 2017,
31 the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon, multiplied by a
32 percentage. For calendar years beginning on or after January 1, 2018, the motor fuel excise tax
33 rate is the amount for the preceding calendar year, multiplied by a percentage. The percentage is
34 one hundred percent (100%) plus or minus the sum of the following:

- 35 (1) The percentage change in population for the applicable calendar year, as
36 estimated under G.S. 143C-2-2, multiplied by seventy-five percent (75%).
- 37 (2) The annual percentage change in the Consumer Price Index for All Urban
38 Consumers, multiplied by twenty-five percent (25%). For purposes of this
39 subdivision, "Consumer Price Index for All Urban Consumers" means the
40 United States city average for energy index contained in the detailed report
41 released in the October prior to the applicable calendar year by the Bureau of
42 Labor Statistics of the United States Department of ~~Labor.~~ Labor, or data
43 determined by the Secretary to be equivalent."

44 **SECTION 5.7.(a)** Section 2(b) of S.L 2016-23 reads as rewritten:

45 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to
46 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section
47 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment
48 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel
49 excise tax rate for an establishment to which permits may be issued pursuant to
50 G.S. 18B-1006(n1), as enacted by this act, is ~~sixteen cents (16¢)~~ eighteen cents (18¢) per gallon.
51 The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate

1 imposed by this section with the rate levied by the State of South Carolina on motor fuels and
2 may recommend a change in the rate imposed by this section to an amount no greater than the
3 rate then in effect for the State of South Carolina. An establishment designated as a special class
4 of property by this section may obtain monthly refunds on the difference between the motor fuel
5 excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section.
6 The Department shall calculate for each calendar year the difference between the motor fuel
7 excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an
8 establishment classified by this section in the absence of this classification and the motor fuel
9 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.
10 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,
11 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The
12 difference in taxes shall be carried forward in the records of the Department as deferred taxes.
13 The deferred taxes for the preceding three calendar years are due and payable on the day this
14 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,
15 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the
16 tax value of the property. A disqualifying event occurs when the title to the real property
17 underlying the establishment is transferred to a new owner. A lien for deferred taxes is
18 extinguished when the amount required by this subsection is paid."

19 **SECTION 5.7.(b)** Effective July 1, 2018, Section 2(b) of S.L 2016-23, as rewritten
20 by subsection (a) of this section, reads as rewritten:

21 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to
22 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section
23 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment
24 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel
25 excise tax rate for an establishment to which permits may be issued pursuant to
26 G.S. 18B-1006(n1), as enacted by this act, is ~~eighteen cents (18¢)~~ twenty cents (20¢) per gallon.
27 The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate
28 imposed by this section with the rate levied by the State of South Carolina on motor fuels and
29 may recommend a change in the rate imposed by this section to an amount no greater than the
30 rate then in effect for the State of South Carolina. An establishment designated as a special class
31 of property by this section may obtain monthly refunds on the difference between the motor fuel
32 excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section.
33 The Department shall calculate for each calendar year the difference between the motor fuel
34 excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an
35 establishment classified by this section in the absence of this classification and the motor fuel
36 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.
37 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,
38 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The
39 difference in taxes shall be carried forward in the records of the Department as deferred taxes.
40 The deferred taxes for the preceding three calendar years are due and payable on the day this
41 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,
42 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the
43 tax value of the property. A disqualifying event occurs when the title to the real property
44 underlying the establishment is transferred to a new owner. A lien for deferred taxes is
45 extinguished when the amount required by this subsection is paid."

46 **SECTION 5.7.(c)** Effective July 1, 2019, Section 2(b) of S.L 2016-23, as rewritten
47 by subsection (b) of this section, reads as rewritten:

48 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to
49 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section
50 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment
51 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel

1 excise tax rate for an establishment to which permits may be issued pursuant to
2 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty cents (20¢)~~twenty-two cents (22¢) per
3 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax
4 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels
5 and may recommend a change in the rate imposed by this section to an amount no greater than
6 the rate then in effect for the State of South Carolina. An establishment designated as a special
7 class of property by this section may obtain monthly refunds on the difference between the motor
8 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this
9 section. The Department shall calculate for each calendar year the difference between the motor
10 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by
11 an establishment classified by this section in the absence of this classification and the motor fuel
12 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.
13 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,
14 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The
15 difference in taxes shall be carried forward in the records of the Department as deferred taxes.
16 The deferred taxes for the preceding three calendar years are due and payable on the day this
17 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,
18 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the
19 tax value of the property. A disqualifying event occurs when the title to the real property
20 underlying the establishment is transferred to a new owner. A lien for deferred taxes is
21 extinguished when the amount required by this subsection is paid."

22 **SECTION 5.7.(d)** Effective July 1, 2020, Section 2(b) of S.L 2016-23, as rewritten
23 by subsection (c) of this section, reads as rewritten:

24 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to
25 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section
26 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment
27 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel
28 excise tax rate for an establishment to which permits may be issued pursuant to
29 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-two cents (22¢)~~twenty-four cents (24¢) per
30 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax
31 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels
32 and may recommend a change in the rate imposed by this section to an amount no greater than
33 the rate then in effect for the State of South Carolina. An establishment designated as a special
34 class of property by this section may obtain monthly refunds on the difference between the motor
35 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this
36 section. The Department shall calculate for each calendar year the difference between the motor
37 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by
38 an establishment classified by this section in the absence of this classification and the motor fuel
39 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.
40 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,
41 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The
42 difference in taxes shall be carried forward in the records of the Department as deferred taxes.
43 The deferred taxes for the preceding three calendar years are due and payable on the day this
44 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,
45 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the
46 tax value of the property. A disqualifying event occurs when the title to the real property
47 underlying the establishment is transferred to a new owner. A lien for deferred taxes is
48 extinguished when the amount required by this subsection is paid."

49 **SECTION 5.7.(e)** Effective July 1, 2021, Section 2(b) of S.L 2016-23, as rewritten
50 by subsection (d) of this section, reads as rewritten:

1 **"SECTION 2.(b)** An establishment to which permits may be issued pursuant to
2 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section
3 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment
4 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel
5 excise tax rate for an establishment to which permits may be issued pursuant to
6 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-four cents (24¢)~~ twenty-six cents (26¢) per
7 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax
8 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels
9 and may recommend a change in the rate imposed by this section to an amount no greater than
10 the rate then in effect for the State of South Carolina. An establishment designated as a special
11 class of property by this section may obtain monthly refunds on the difference between the motor
12 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this
13 section. The Department shall calculate for each calendar year the difference between the motor
14 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by
15 an establishment classified by this section in the absence of this classification and the motor fuel
16 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.
17 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,
18 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The
19 difference in taxes shall be carried forward in the records of the Department as deferred taxes.
20 The deferred taxes for the preceding three calendar years are due and payable on the day this
21 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,
22 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the
23 tax value of the property. A disqualifying event occurs when the title to the real property
24 underlying the establishment is transferred to a new owner. A lien for deferred taxes is
25 extinguished when the amount required by this subsection is paid."

26 **SECTION 5.7.(f)** Effective July 1, 2022, Section 2(b) of S.L 2016-23, as rewritten
27 by subsection (e) of this section, reads as rewritten:

28 **"SECTION 2.(b)** An establishment to which permits may be issued pursuant to
29 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section
30 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment
31 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel
32 excise tax rate for an establishment to which permits may be issued pursuant to
33 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-six cents (26¢)~~ twenty-eight cents (28¢) per
34 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax
35 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels
36 and may recommend a change in the rate imposed by this section to an amount no greater than
37 the rate then in effect for the State of South Carolina. An establishment designated as a special
38 class of property by this section may obtain monthly refunds on the difference between the motor
39 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this
40 section. The Department shall calculate for each calendar year the difference between the motor
41 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by
42 an establishment classified by this section in the absence of this classification and the motor fuel
43 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.
44 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,
45 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The
46 difference in taxes shall be carried forward in the records of the Department as deferred taxes.
47 The deferred taxes for the preceding three calendar years are due and payable on the day this
48 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,
49 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the
50 tax value of the property. A disqualifying event occurs when the title to the real property

1 underlying the establishment is transferred to a new owner. A lien for deferred taxes is
 2 extinguished when the amount required by this subsection is paid."
 3

4 **PART VI. OTHER TAX CHANGES**

5 **SECTION 6.1.(a)** G.S. 105-230(b) reads as rewritten:

6 "(b) Any act performed or attempted to be performed during the period of suspension is
 7 invalid and of no effect, unless the Secretary of State reinstates the corporation or limited liability
 8 company pursuant to G.S. 105-232. However, a suspended entity's state tax filing obligations and
 9 the payment of its tax liability is not affected by the suspension, nor does a suspension affect the
 10 liability of a responsible person under G.S. 105-242.2, whether the obligation or liability is
 11 enforced in the context of a civil or criminal proceeding or otherwise."

12 **SECTION 6.1.(b)** G.S. 105-242.2(a)(1) reads as rewritten:

13 "(1) Business entity. – A corporation, a limited liability company, or a
 14 partnership-partnership, regardless of whether the entity is suspended under
 15 G.S. 105-230 or is dissolved under Article 14 of Chapter 55 of the General
 16 Statutes or under Article 6 of Chapter 57D of the General Statutes."

17 **SECTION 6.2.** G.S. 105-237.1(a)(6) reads as rewritten:

18 "(6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the
 19 assessment is for sales or use tax the retailer failed to collect or the person
 20 failed to pay on an item taxable under G.S. 105-164.4(a)(10) through (a)(15),
 21 and the retailer or person made a good-faith effort to comply with the sales
 22 and use tax laws. This subdivision expires for applies to assessments issued
 23 after for any tax due for a reporting period ending prior to July 1, 2020."

24 **SECTION 6.3.** G.S. 105-282.1(a) reads as rewritten:

25 **"§ 105-282.1. Applications for property tax exemption or exclusion; annual review of**
 26 **property exempted or excluded from property tax.**

27 (a) Application. – Every owner of property claiming exemption or exclusion from
 28 property taxes under the provisions of this Subchapter has the burden of establishing that the
 29 property is entitled to it. If the property for which the exemption or exclusion is claimed is
 30 appraised by the Department of Revenue, the application shall be filed with the Department.
 31 Otherwise, the application shall be filed with the assessor of the county in which the property is
 32 situated. An application must contain a complete and accurate statement of the facts that entitle
 33 the property to the exemption or exclusion and must indicate the municipality, if any, in which
 34 the property is located. Each application filed with the Department of Revenue or an assessor
 35 shall be submitted on a form approved by the Department. Application forms shall be made
 36 available by the assessor and the Department, as appropriate.

37 Except as provided below, an owner claiming an exemption or exclusion from property taxes
 38 must file an application for the exemption or exclusion annually during the listing period.

39 ...

40 (2) Single application required. – An owner of one or more of the following
 41 properties eligible for a property tax benefit must file an application for the
 42 benefit to receive it. Once the application has been approved, the owner does
 43 not need to file an application in subsequent years unless new or additional
 44 property is acquired or improvements are added or removed, necessitating a
 45 change in the valuation of the property, or there is a change in the use of the
 46 property or the qualifications or eligibility of the taxpayer necessitating a
 47 review of the benefit.

48 ...

49 b. Special classes of property excluded from taxation under
 50 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),

(36), (38), (39), (41), ~~or (45)~~(45), (46), (47), (48), or (49) or under G.S. 131A-21.

...."

SECTION 6.4.(a) G.S. 153A-155(c) reads as rewritten:

"(c) Collection. – A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing county on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust for and on account of the taxing county.

The taxing county shall design and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. A retailer who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the retailer for State sales and use tax."

SECTION 6.4.(b) G.S. 160A-215(c) reads as rewritten:

"(c) Collection. – A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing city on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust for and on account of the taxing city.

The taxing city shall design and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the retailer for State sales and use tax."

SECTION 6.5.(a) G.S. 130A-247 reads as rewritten:

"§ 130A-247. Definitions.

The following definitions shall apply throughout this Part:

- ...
 - (5a) "Bed and breakfast home" means a business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria:
 - a. Does not serve food or drink to the general public for pay.
 - b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.
 - c. Includes the price of breakfast in the room rate. The price of additional meals served ~~may be added to the room rate~~ shall be listed as a separate charge on the overnight guest's bill at the conclusion of the overnight guest's stay.
 - d. Is the permanent residence of the owner or the manager of the business.
 - (6) "Bed and breakfast inn" means a business of at least nine but not more than 12 guest rooms that offers bed and breakfast accommodations for a period of less than one week, and that meets all of the following requirements:
 - a. Does not serve food or drink to the general public for pay.
 - b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals only to overnight guests of the business.
 - c. Includes the price of breakfast in the room rate. The price of additional meals served ~~may be added to the room rate at the conclusion of the overnight guest's stay~~ shall be listed as a separate charge on the overnight guest's bill at the conclusion of the overnight guest's stay.
 - d. Is the permanent residence of the owner or the manager of the business.

...."

SECTION 6.5.(b) This section becomes effective July 1, 2018, and applies to gross receipts derived from the rental of an accommodation that a consumer occupies or has the right to occupy on or after that date. A retailer is not liable for an undercollection of sales tax, occupancy tax, or prepared food and beverage tax if the retailer has made a good-faith effort to comply with the law and collect the proper amount of tax and has, due to the change under this section, undercollected the amount of sales tax, occupancy tax, or prepared food and beverage tax that is due. A retailer is liable for all taxes collected whether in error or otherwise. This subsection applies only to the period beginning January 1, 2018, and ending July 1, 2018.

SECTION 6.6. A municipality that is holding sales and use tax revenue distributed to it that is restricted for water and sewage capital outlay purposes, as required under G.S. 105-487(b) and G.S. 105-504, repealed effective August 14, 1998, under S.L. 1998-98, may use the restricted revenue as follows:

- (1) A municipality that does not own or operate a water or sewer system may use part or all of the restricted sales and use tax revenue for any lawful purpose upon adoption of a resolution. A municipality that adopts a resolution releasing the sales and use tax revenue from the repealed restriction pursuant to this subdivision must provide written notice to the Secretary of the Local Government Commission that the funds are unrestricted within 30 days of the adoption of the resolution.
- (2) A municipality that owns or operates a water or sewer system must use the revenue for its restricted purpose. The municipality may petition the Local

1 Government Commission to waive part or all of the restriction, as allowed
2 under G.S. 105-487(c).

3 **SECTION 6.7.** G.S. 105-320(b) is repealed.

4 **SECTION 6.8.(a)** G.S. 105-129.39 reads as rewritten:

5 **"§ 105-129.39. Sunset.**

6 This Article expires for qualified rehabilitation expenditures and rehabilitation expenses
7 incurred on or after January 1, 2015. For qualified rehabilitation expenditures and rehabilitation
8 expenses incurred prior to January 1, 2015, this Article expires for property not placed in service
9 by January 1, 2023."

10 **SECTION 6.8.(b)** G.S. 105-129.110 reads as rewritten:

11 **"§ 105-129.110. Sunset.**

12 This Article expires for qualified rehabilitation expenditures and rehabilitation expenses
13 incurred on or after January 1, 2020. For qualified rehabilitation expenditures and rehabilitation
14 expenses incurred prior to January 1, 2020, this Article expires for property not placed in service
15 by January 1, 2028."

16 **SECTION 6.9.** G.S. 105-160.3(b) reads as rewritten:

17 "(b) The tax credits allowed under G.S. 105-153.9 ~~and G.S. 105-153.10~~ may not be
18 claimed by an estate or trust."

19 **SECTION 6.10.(a)** G.S. 115C-595(c) is repealed.

20 **SECTION 6.10.(b)** This section is effective for taxable years beginning on or after
21 January 1, 2018.

22 **SECTION 6.11.** G.S. 105-163.7 reads as rewritten:

23 **"§ 105-163.7. Statement to employees; information to Secretary.**

24 ...

25 (b) ~~Report-Informational Return~~ to Secretary. – Every employer shall annually file an
26 ~~annual report-informational return~~ with the Secretary that contains the information given on each
27 of the employer's written statements to an employee. The Secretary may require additional
28 information to be included on the ~~report-informational return~~, provided the Secretary has given
29 a minimum of 90 days' notice of the additional information required. The ~~annual-report~~
30 informational return is due on or before January 31 of the succeeding year and must be filed in
31 an electronic format as prescribed by the Secretary. ~~The Secretary may, upon a showing of good~~
32 ~~cause, waive the electronic submission requirement. The report-~~If the employer terminates its
33 business or permanently ceases paying wages during the calendar year, the informational return
34 must be filed within 30 days of the last payment of remuneration. The informational return
35 required by this subsection is in lieu of the report required by G.S. 105-154.

36 ...

37 (d) Deduction Disallowance. – The Secretary may request a person who fails to timely
38 file statements of payment to another person with respect to wages, dividends, rents, or interest
39 paid to that person to file the statements by a certain date. If the payer fails to file the statements
40 by that date, and, in addition to any applicable penalty under G.S. 105-236, the amounts claimed
41 on the payer's income tax return as deductions for salaries and wages or rents or interest shall be
42 disallowed to the extent that the payer failed to comply with the Secretary's request with respect
43 to the statements."

44 **SECTION 6.12.** G.S. 105-251.2 reads as rewritten:

45 **"§ 105-251.2. Compliance ~~information requests~~ informational returns.**

46 (a) Occupational Licensing Board. – An occupational licensing board must give
47 information to the Secretary when the Secretary requests the information. The Secretary may not
48 request the information more than one time per calendar year. The Secretary may request the
49 board to provide on a return, a report, or otherwise, a licensee's name, license number, tax
50 identification number, business address, and any other information pertaining to the licensee in
51 possession of the board that the Secretary deems necessary to determine the licensee's compliance

1 with this Chapter. For purposes of this subsection, the term "occupational licensing board" has
 2 the same meaning as defined in G.S. 93B-1.

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

- 11 (1) An ABC store in the ABC system, as defined in G.S. 18B-101.
- 12 (2) A wine wholesaler, as defined in G.S. 18B-1201.
- 13 (3) A wholesaler, as defined in G.S. 18B-1301.
- 14 (4) The holder of an unfortified winery permit, a fortified winery permit, a
 15 brewery permit, or a distillery permit under G.S. 18B-1100.

16 (c) Payment Settlement Entity. – For any year in which a payment settlement entity is
 17 required to make a return pursuant to section 6050W of the Code, the entity shall submit the
 18 information in the return to the Secretary at the time the return is made. For purposes of this
 19 subsection, the term "payment settlement entity" has the same meaning as provided in section
 20 6050W of the Code.

21 (d) Electronic Format. – All reports submitted to the Department of Revenue under this
 22 section shall be in an electronic format as ~~requested~~prescribed by the Secretary. ~~Any report not~~
 23 ~~timely filed under this section is subject to a penalty of one thousand dollars (\$1,000)."~~

24 **SECTION 6.12.1.** G.S. 105-236(a) reads as rewritten:

25 **"§ 105-236. Penalties; situs of violations; penalty disposition.**

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

- 27 ...
- 28 (10) ~~Failure to File~~Penalties Regarding Informational Returns. – The following
 29 penalties apply with regard to an informational return required by Article 4A,
 30 5, 9, 36C, or 36D of this Chapter:
 - 31 a. Repealed by Session Laws 1998-212, s. 29A.14(m), effective January
 32 1, 1999.
 - 33 b. ~~The Secretary may request a person who fails to file timely statements~~
 34 ~~of payment to another person with respect to wages, dividends, rents,~~
 35 ~~or interest paid to that person to file the statements by a certain date.~~
 36 ~~If the payer fails to file the statements by that date, the amounts~~
 37 ~~claimed on the payer's income tax return as deductions for salaries and~~
 38 ~~wages, or rents or interest shall be disallowed to the extent that the~~
 39 ~~payer failed to comply with the Secretary's request with respect to the~~
 40 ~~statements.~~
 - 41 c. For failure to file with the Secretary ~~an informational return required~~
 42 ~~by Article 4A, 36C, or 36D of this Chapter~~ by the date the return is
 43 due, ~~there shall be assessed the Secretary shall assess~~ a penalty of fifty
 44 dollars ~~(\$50.00)~~(\$50.00) per day, up to a maximum penalty of one
 45 thousand dollars (\$1,000.00).
 - 46 d. For failure to file in the format prescribed by the Secretary, the
 47 Secretary shall assess a penalty of two hundred dollars (\$200.00).

48"

49 **SECTION 6.13.** G.S. 105-263 reads as rewritten:

50 **"§ 105-263. Timely filing of mailed documents and requests for extensions.**

1 (a) Mailed Document. – Sections 7502 and 7503 of the Code govern when a return,
2 report, payment, or any other document that is mailed to the Department is timely filed.

3 (b) Extension. – The Secretary may extend the time in which a person must file a return
4 with the Secretary. To obtain an extension of time for filing a return, a person must comply with
5 any application requirement set by the Secretary. An extension of time for filing a franchise tax
6 return or an income tax return does not extend the time for paying the tax due or the time when
7 a penalty attaches for failure to pay the tax. An extension of time for filing any return other than
8 a franchise tax return or an income tax return extends the time for paying the tax due and the time
9 when a penalty attaches for failure to pay the tax. When an extension of time for filing a return
10 extends the time for paying the tax expected to be due with the return, interest, at the rate
11 established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the
12 return to the date the tax is paid.

13 (c) Electronic Documents. – The Secretary shall prescribe when a return, report,
14 payment, or any other document that is electronically submitted to the Department is timely
15 filed."

16 **SECTION 6.14.** Article 9 of Chapter 105 of the General Statutes is amended by
17 adding a new section to read:

18 "**§ 105-241A. Electronic filing of returns.**

19 (a) Purpose. – The General Assembly finds that the various statutes within Chapter 105
20 of the General Statutes that address the filing of tax returns or informational returns were
21 originally drafted for the use of paper returns submitted either personally or through the mail.
22 Through technological advances, there are many methods by which tax returns can be filed
23 electronically that can be processed more efficiently by the Department of Revenue, are easier
24 and more convenient for taxpayers, improve the accuracy of the return, and are safer to use with
25 respect to identity theft.

26 The General Assembly further finds that, in some cases, it is proper to require returns to be
27 filed electronically, while in other cases it is more appropriate to provide electronic filing as an
28 option instead of a requirement. In addition, the General Assembly recognizes that, because of
29 constant technological advances, it is necessary to allow the Department of Revenue flexibility
30 to provide specific guidance for how to file returns electronically, with a goal of continually
31 improving the process and reducing the costs of and time to process returns.

32 (b) Electronically Filed Returns. – The Department shall offer electronic filing for returns
33 required under this Chapter if the Department determines that it is cost-effective to do so and the
34 Department has established and implemented procedures to electronically file specific returns.

35 (c) Form of Filing Electronically; Electronic Signature. – The Secretary shall prescribe
36 the form of electronically filing each return that is required to or may be filed electronically and
37 how the taxpayer or return preparer signs an electronically filed return.

38 (d) Waiver of Requirement to File Electronically. – The Secretary may, upon showing of
39 good cause, waive any electronic submission requirement for returns required to be filed
40 electronically under this Chapter.

41 (e) Notice to Taxpayers. – The Department shall, by December 1 of each year, publish
42 on its Web site a list of returns required to be filed electronically and permitted to be filed
43 electronically during the next calendar year."

44
45 **PART VII. INSURANCE REGULATORY CHARGE**

46 **SECTION 7.1.** The percentage rate to be used in calculating the insurance regulatory
47 charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2019 calendar year.
48

49 **PART VIII. DEPARTMENT OF REVENUE/INFORMATION TECHNOLOGY**
50 **TRANSITION TO DEPARTMENT OF INFORMATION TECHNOLOGY**

51 **SECTION 8.1.(a)** G.S. 105-259 reads as rewritten:

1 "§ 105-259. Secrecy required of officials; penalty for violation.

2 ...

3 (b1) Information security. – The Secretary shall, consistent with the requirements of this
 4 section to maintain secrecy of tax information, determine when, how, and under what conditions
 5 the disclosure of tax information authorized by subsection (b) of this section shall be made. The
 6 Secretary shall be solely responsible for determining whether information security protections
 7 for systems or services that store, process, or transmit State or federal tax information are
 8 adequate, and the Secretary is not required to use any systems or services determined to be
 9 inadequate.

10"

11 **SECTION 8.1.(b)** G.S. 143B-1325(c) reads as rewritten:

12 "(c) Participating Agencies. – The State CIO shall prepare detailed plans to transition each
 13 of the participating agencies. As the transition plans are completed, the following participating
 14 agencies shall transfer information technology personnel, operations, projects, assets, and
 15 appropriate funding to the Department of Information Technology:

- 16 (1) Department of Natural and Cultural Resources.
- 17 (2) Department of Health and Human Services.
- 18 ~~(3) Department of Revenue.~~
- 19 (4) Department of Environmental Quality.
- 20 (5) Department of Transportation.
- 21 (6) Department of Administration.
- 22 (7) Department of Commerce.
- 23 (8) Governor's Office.
- 24 (9) Office of State Budget and Management.
- 25 (10) Office of State Human Resources.
- 26 (11) Repealed by Session Laws 2016-94, s. 7.11(a), effective July 1, 2016.
- 27 (12) Department of Military and Veterans Affairs.
- 28 (13) Department of Public Safety, with the exception of the following:
 - 29 a. State Bureau of Investigation.
 - 30 b. State Highway Patrol.
 - 31 c. Division of Emergency Management.

32 The State CIO shall ensure that agencies' operations are not adversely impacted during the
 33 transition."

34 **SECTION 8.1.(c)** G.S. 143B-1325(d) reads as rewritten:

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

45 **SECTION 8.1.(d)** Subsection (c) of this section becomes effective July 1, 2018. The
 46 remainder of this section is effective when it becomes law.

47
 48 **PART IX. EFFECTIVE DATE**

49 **SECTION 9.1.** Except as otherwise provided, this act is effective when it becomes
 50 law.