

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

D

SENATE BILL 715
PROPOSED COMMITTEE SUBSTITUTE S715-PCS15281-RBxf-28

Short Title: Various Changes to the Revenue Laws.

(Public)

Sponsors:

Referred to:

May 17, 2018

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



* S 7 1 5 - P C S 1 5 2 8 1 - R B X F - 2 8 *

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.

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

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

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

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

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

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

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

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

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

22 ...

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24 withdrawn from the Parental Savings Trust Fund of the State Education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

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

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

35 **SECTION 1.7.(b)** G.S. 116-209.25 reads as rewritten:

36 "**§ 116-209.25. Parental Savings Trust Fund.**

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

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

46 "

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

49 **SECTION 1.8.** Except as otherwise provided, this Part is effective when it becomes
50 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

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

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

- a. The receipts are from real or tangible personal property located in this ~~State; or State,~~ and includes receipts from incidental services sold as part of, or in connection with, the sale of tangible personal property in this State.
- b. The receipts are from intangible property ~~and are received from sources to the extent the intangible property is used within this State;~~ or State.
- c. The receipts are from services and the income-producing activities are in this State. For the purposes of this subdivision, an "income-producing activity" means an activity directly performed by the taxpayer or its agents for the ultimate purpose of generating the sale of the service. Receipts from income-producing activities performed within and without this State are attributed to this State in proportion to the income-producing activities performed in this State to total income-producing activities performed everywhere that generate the sale of service."

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

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

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

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

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

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

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

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

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

(a) Tax Levied. – A tax is levied in this section on a captive insurance company doing business in this State. In the case of a branch captive insurance company, the tax levied in this section applies only to the branch business of the company. Two or more captive insurance companies under common ownership and control are taxed under this section as a single captive

1 insurance company. The tax levied in this section does not apply to a foreign captive insurance
 2 company.

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

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

6 (2) Income taxes imposed by Article 4 of this ~~Chapter~~ Chapter, subject to the
 7 provisions of G.S. 105-130.5A.

8 (3) Local privilege taxes or local taxes computed on the basis of gross premiums.

9 (4) The insurance regulatory charge imposed by G.S. 58-6-25.

10"

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

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

13 (1) A farmers' mutual assessment fire insurance companies or to company.

14 (2) A fraternal orders or societies that do order or society that does not operate for
 15 a profit and ~~do~~ does not issue policies on any person except members.

16 (3) ~~This section does not apply to a~~ A captive insurance company taxed under
 17 G.S. 105-228.4A.

18 (4) A foreign captive insurance company that is licensed in and taxed on its gross
 19 premiums in a jurisdiction within the United States other than this State."

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

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

23 **SECTION 2.7.(a)** G.S. 105-130.11(b) reads as rewritten:

24 "(b) Unrelated Business Income. – Except as provided in this subsection, an organization
 25 described in subdivision (a)(1), (3), (4), (5), (6), (7), (8), or (9) of this section and any
 26 organization exempt from federal income tax under the Code is subject to the tax provided in
 27 G.S. 105-130.3 on its unrelated business taxable income, as defined in section 512 of the Code,
 28 adjusted as provided in G.S. 105-130.5. The tax does not apply, however, to net income derived
 29 from any of the following:

30 (1) Research performed by a college, university, or hospital.

31 (2) Research performed for the United States or its instrumentality or for a state
 32 or its political subdivision.

33 (3) Research performed by an organization operated primarily to carry on
 34 fundamental research, the results of which are freely available to the general
 35 public.³

36 (4) Amounts paid or incurred by an organization that is exempt from federal
 37 income tax under section 501(c)(3) of the Code for a parking facility that
 38 would otherwise be included as unrelated business income under Section
 39 512(a)(7) of the Code."

40 **SECTION 2.7.(b)** This section is effective for taxable years beginning on or after
 41 January 1, 2018.

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

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

44 **"§ 105-130.20. Federal ~~corrections, determinations and amended returns.~~**

45 (a) Federal Determination. – If a taxpayer's federal taxable income or a federal tax credit
 46 that is changed or corrected by the Commissioner of Internal Revenue or other officer of the
 47 United States or other competent authority, and the change or correction affects the amount of
 48 State tax payable is corrected or otherwise determined by the federal government, payable, the
 49 taxpayer must, must file an income tax return reflecting each change or correction from a federal
 50 determination within six months after being notified of ~~the correction or final determination by~~
 51

1 the federal government, file an income tax return with the Secretary reflecting the corrected or
2 ~~determined taxable income each change or correction.~~ The Secretary must propose an assessment
3 for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The
4 Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. ~~A taxpayer~~
5 ~~that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits its~~
6 ~~rights to any refund due by reason of the determination.~~ A federal determination has the same
7 meaning as defined in G.S. 105-228.90.

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

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

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

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

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

20 "**§ 105-159. Federal ~~corrections, determinations and amended returns.~~**

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

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

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

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

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

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

47 "**§ 105-160.8. Federal ~~corrections, determinations.~~**

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

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

1 **"§ 105-163.6A. Federal corrections, determinations.**

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

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

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

18 ...

19 (1a) Federal amended return. – If a taxpayer files a return as a result of filing a
20 federal amended return and the return is filed within the time required by this
21 Subchapter, the period for proposing an assessment of any tax due is one year
22 after the return is filed or three years after the original return was filed or due
23 to be filed, whichever is later. If the taxpayer does not file the return within
24 the required time, the period for proposing an assessment of any tax due is
25 three years after the date the federal amended return was filed with the
26 Commissioner of Internal Revenue.

27"

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

29 **"§ 105-241.10. Limit on refunds and assessments after a federal determination.**

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

- 37 (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of
38 adjustments related to the federal determination.
- 39 (2) Assessment. – A taxpayer is liable for additional tax only if the additional tax
40 is the result of adjustments related to the federal determination. A proposed
41 assessment may not include an amount that is outside the scope of this
42 liability."

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

44 "(3a) Federal determination. – A change or correction of the amount of a federal tax
45 due arising from an audit by the Commissioner of Internal Revenue."

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

48
49 **PART IV. SALES AND USE TAX CHANGES**

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

51 **"§ 105-164.3. Definitions.**

1 The following definitions apply in this Article:

2 ...

3 (20b) Mixed transaction contract. – A contract that includes both a real property
4 contract for a capital improvement and a repair, maintenance, and installation
5 service for real property that is not related to the capital improvement."

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

8 "**§ 105-164.3. Definitions.**

9 The following definitions apply in this Article:

10 ...

11 (2c) Capital improvement. – One or more of the following:

12 ...

13 e. Painting or wallpapering of real property, except where painting or
14 wallpapering is incidental to the repair, maintenance, and installation
15 service.~~services.~~

16 ...

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

21 ...

22 (11d) Freestanding appliance. – A machine commonly thought of as an appliance
23 operated by gas or electric current. Examples include ~~installation of~~
24 a dishwasher, washing machine, clothes dryer, refrigerator, freezer, microwave,
25 and range, regardless of whether the range is slide-in or drop-in.

26 ...

27 (20b) Mixed transaction contract. – A contract that includes both a real property
28 contract for a capital improvement and a ~~repair, maintenance, and installation~~
29 ~~service~~ services for real property that ~~is~~ are not related to the capital
30 improvement.

31 ...

32 (24) Net taxable sales. – The gross sales or gross receipts of ~~the business of~~
33 a retailer or another person taxed under this Article after deducting exempt sales
34 and nontaxable sales.

35 ...

36 (33c) Qualifying datacenter. – A datacenter that satisfies each of the following
37 conditions:

38 a. The datacenter certifies that it satisfies or will satisfy the wage
39 standard for the development tier area or zone in which the datacenter
40 is located. There is no wage standard for a development tier one area.
41 If an urban progress zone or an agrarian growth zone is not in a
42 development tier one area, then the wage standard for that zone is an
43 average weekly wage that is at least equal to ninety percent (90%) of
44 the lesser of the average wage for all insured private employers in the
45 State and the average wage for all insured private employers in the
46 county in which the datacenter is located. The wage standard for a
47 development tier two area or a development tier three area is an
48 average weekly wage that is at least equal to one hundred ten percent
49 (110%) of the lesser of the average wage for all insured private
50 employers in the State and ninety percent (90%) of the average wage

- 1 for all insured private employers in the county in which the datacenter
 2 is located.
- 3 b. The Secretary of Commerce has made a written determination that at
 4 least seventy-five million dollars (\$75,000,000) in private funds has
 5 been or will be invested by one or more owners, users, or tenants of
 6 the datacenter within five years of the date the owner, user, or tenant
 7 of the datacenter makes its first real or tangible property investment in
 8 the datacenter on or after January 1, 2012. Investments in real or
 9 tangible property in the datacenter made prior to January 1, 2012, may
 10 not be included in the investment required by this subdivision.
- 11 c. The datacenter certifies that it provides or will provide health
 12 insurance for all of its full-time ~~employees.~~ employees as long as the
 13 datacenter operates. The datacenter provides health insurance if it pays
 14 or will pay at least fifty percent (50%) of the premiums for health care
 15 coverage that equals or exceeds the minimum provisions of the basic
 16 health care plan of coverage recommended by the Small Employer
 17 Carrier Committee pursuant to G.S. 58-50-125.
- 18 ...
- 19 (33i) Remodeling. – A transaction comprised of multiple services performed by one
 20 or more persons to restore, improve, alter, or update real property that may
 21 otherwise be subject to tax as repair, maintenance, and installation services if
 22 separately performed. The term includes a transaction where the internal
 23 structure or design of one or more rooms or areas within a room or building
 24 are substantially changed. The term does not include a single service that is
 25 included in repair, maintenance, and installation ~~service.~~ services. The term
 26 does not include a transaction where the true purpose is ~~a~~ repair, maintenance,
 27 and installation ~~service~~ services no matter that another service included in
 28 repair, maintenance, and installation ~~service~~ services is performed that is
 29 incidental to the true purpose of the transaction; examples include repair of
 30 sheetrock that includes applying paint, replacement of cabinets that includes
 31 installation of caulk or molding, and the installation of hardwood floors that
 32 includes installation of shoe molding.
- 33 ...
- 34 (33l) Repair, maintenance, and installation services. – The term includes the
 35 activities listed in this subdivision and applies to tangible personal property,
 36 motor vehicle, digital property, and real property. The term does not include
 37 services used to fulfill a real property contract taxed in accordance with
 38 G.S. 105-164.4H:
- 39 ...
- 40 d. To install, apply, connect, adjust, or set into position tangible personal
 41 ~~property, digital property, or a motor vehicle.~~ property or digital
 42 property. The term includes floor refinishing and the installation of
 43 carpet, flooring, floor coverings, windows, doors, cabinets,
 44 countertops, and other installations where the item being installed may
 45 replace a similar existing item. The replacement of more than one of a
 46 like-kind item, such as replacing one or more windows, is ~~a single~~
 47 repair, maintenance, and installation ~~service.~~ services. The term does
 48 not include an installation defined as a capital improvement under
 49 subdivision (2c)d. of this ~~section.~~ section and substantiated as a capital
 50 improvement under G.S. 105-164.4H(a1).

- 1 e. To inspect or monitor property or install, apply, or connect tangible
 2 personal property or digital property on a motor vehicle, but does not
 3 include security or similar monitoring services for real
 4 property-vehicle or adjust a motor vehicle.
 5 ...
- 6 (36) Sale or selling. – The transfer for consideration of title, license to use or
 7 consume, or possession of tangible personal property or digital property or the
 8 performance for consideration of a service. The transfer or performance may
 9 be conditional or in any manner or by any means. The term ~~includes~~ applies
 10 to the following:
- 11 a. Fabrication of tangible personal property for consumers by persons
 12 engaged in business who furnish either directly or indirectly the
 13 materials used in the fabrication work.
- 14 b. Furnishing or preparing tangible personal property consumed on the
 15 premises of the person furnishing or preparing the property or
 16 consumed at the place at which the property is furnished or prepared.
- 17 c. A transaction in which the possession of the property is transferred but
 18 the seller retains title or security for the payment of the consideration.
- 19 d. A lease or rental.
- 20 e. Transfer of a digital code.
- 21 f. An accommodation.
- 22 g. A service contract.
- 23 h. Any other item subject to tax under this Article.
- 24 (37) Sales price. – The total amount or consideration for which tangible personal
 25 property, digital property, or services are sold, leased, or rented. The
 26 consideration may be in the form of cash, credit, property, or services. The
 27 sales price must be valued in money, regardless of whether it is received in
 28 money.
- 29 a. The term includes all of the following:
 30 ...
- 31 7. Credit for trade-in. The amount of any credit for trade-in is not
 32 a reduction of the sales price.
- 33 8. ~~Discounts~~ The amount of any discounts that are reimbursable
 34 by a third party and can be determined at the time of sale
 35 through any of the following:
- 36 I. Presentation by the consumer of a coupon or other
 37 documentation.
- 38 II. Identification of the consumer as a member of a group
 39 eligible for a discount.
- 40 III. The invoice the retailer gives the consumer.
- 41 b. The term does not include any of the following:
 42 ...
- 43 (38b) Service contract. – A contract where the obligor under the contract agrees to
 44 maintain, monitor, inspect, repair, or provide another service included in the
 45 definition of repair, maintenance, and installation ~~service~~ services to digital
 46 property, tangible personal property, or real property for a period of time or
 47 some other defined measure. The term does not include a single service
 48 included in repair, maintenance, or installation ~~service~~ services, but does
 49 include a contract where the obligor may provide a service included in the
 50 definition of repair, maintenance, and installation services as a condition of
 51 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 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(20b), 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.

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

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

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

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

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

6 d. A qualified jet engine.

7 (1b) The rate of three percent (3%) applies to the sales price of each boat sold at
 8 retail, including all accessories attached to the boat when it is delivered to the
 9 purchaser. The maximum tax is one thousand five hundred dollars (\$1,500)
 10 per article. The maximum tax does not apply to the sales price of or gross
 11 receipts derived from the sales price of or gross receipts derived from repair,
 12 maintenance, and installation services, but the use tax exemption in
 13 G.S. 105-164.27A(a3) may apply to these services.

14 ...

15 (6b) The general rate applies to the sales price of digital property that is sold at
 16 retail and that is listed in this subdivision, is delivered or accessed
 17 electronically, is not considered tangible personal property, and would be
 18 taxable under this Article if sold in a tangible medium. The tax applies
 19 regardless of whether the purchaser of the item has a right to use it
 20 permanently or to use it without making continued payments. This subdivision
 21 applies to the sales price of or gross receipts derived from repair, maintenance,
 22 and installation services to digital property. The tax does not apply to a service
 23 that is taxed under another subdivision of this subsection or to an information
 24 service. The following property is subject to tax under this subdivision:

25 ...

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

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

32 **"§ 105-164.4B. Sourcing principles.**

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

38 ...

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

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

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

- 47 (1) An amount paid solely for the right to ~~participate~~ participate, other than to be
 48 a spectator, in sporting activities. Examples of these types of charges include
 49 bowling fees, golf green fees, and gym memberships.
- 50 (2) Tuition, registration fees, or charges to attend instructional seminars,
 51 conferences, or workshops for educational purposes.

- 1 (3) A political contribution.
- 2 (4) A charge for lifetime seat rights, lease, or rental of a suite or box for an
3 entertainment activity, provided the charge is separately stated on an invoice
4 or similar billing document given to the purchaser at the time of sale.
- 5 (5) An amount paid solely for transportation.
- 6 (6) An amount paid for the right to participate, other than to be a spectator, in the
7 following activities:
- 8 a. Rock climbing, skating, skiing, snowboarding, sledding, zip lining, or
9 other similar activities.
- 10 b. Instruction classes related to the items included in sub-subdivision a.
11 of this subdivision.
- 12 c. Riding on a carriage, boat, train, plane, horse, chairlift, or other
13 similar rides.
- 14 d. Amusement rides, including a waterslide."

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

16 "**§ 105-164.4I. Service contracts.**

17 ...

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

19 (1) ~~A security or similar monitoring contract for real property.~~

20 (2) ~~A contract to provide a certified operator for a wastewater system.~~

21"

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

23 "(b) Liability. – The tax imposed by this section is payable by the person who purchases,
24 leases, or rents tangible personal property or digital property or who purchases a service. If the
25 property purchased becomes a part of real property in the State, the real property contractor, the
26 retailer-contractor, the subcontractor, the lessee, and the owner are jointly and severally liable
27 for the tax, except as provided in ~~G.S. 105-164.4H(a)~~G.S. 105-164.4H(a1) regarding receipt of
28 an affidavit of capital improvement. The liability of a real property contractor, a
29 retailer-contractor, a subcontractor, a lessee, or an owner who did not purchase the property is
30 satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

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

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

35 "**§ 105-164.11B. Recover sales tax paid.**

36 A retailer who pays sales and use tax on property or services and subsequently resells the
37 property or services at retail, without the property or service being used by the retailer, may
38 recover the sales or use tax originally paid to a seller as provided in this section. A retailer entitled
39 to recover tax under this section may reduce taxable receipts by the taxable amount of the
40 purchase price of the property or services resold for the period in which the retail sale occurs. A
41 recovery of tax allowed under this section is not an overpayment of tax and, where such recovery
42 is taken, a refund of the tax originally paid should not be requested pursuant to the authority
43 under G.S. 105-164.11. Any amount for tax recovered under this section in excess of tax due for
44 a reporting period under this Article is not subject to refund. Any tax recovered under this section
45 may be carried forward to a subsequent reporting period and taken as an adjustment to taxable
46 receipts. The records of the retailer must clearly reflect and support the adjustment to taxable
47 receipts for the period in which the adjustment is made."

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

49 "(b) Refund Procedures First Remedy. – The first course of remedy available to purchasers
50 seeking a refund of over-collected sales or use taxes from the seller are the customer refund
51 procedures provided in this Chapter or otherwise provided by administrative rule, bulletin, or

1 directive on the law issued by the Secretary. Where a person recovers tax under
 2 G.S. 105-164.11B, a refund or credit under this section is not allowed by the Secretary."

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

4 **"§ 105-164.13. Retail sales and use tax.**

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

8 ...

9 (5e) Sales of mill machinery or mill machinery parts or accessories to any of the
 10 ~~following persons listed in this subdivision. For purposes of this subdivision,~~
 11 the term "accessories" does not include electricity. The persons are:

- 12 a. A manufacturing industry or plant. A manufacturing industry or plant
 13 does not include (i) a delicatessen, cafe, cafeteria, restaurant, or
 14 another similar retailer that is principally engaged in the retail sale of
 15 foods prepared by it for consumption on or off its premises or (ii) a
 16 production company.
 17 b. A contractor or subcontractor if the purchase is for use in the
 18 performance of a contract with a manufacturing industry or plant.
 19 c. A subcontractor if the purchase is for use in the performance of a
 20 contract with a general contractor that has a contract with a
 21 manufacturing industry or plant.

22 ...

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

- 25 a. The holder of a standard commercial fishing license issued under
 26 G.S. 113-168.2 for principal use in commercial fishing operations.
 27 b. The holder of a shellfish license issued under G.S. 113-169.2 for
 28 principal use in commercial shellfishing operations.
 29 c. The operator of a for-hire ~~boat, vessel,~~ as defined in G.S. 113-174, for
 30 principal use in the commercial use of the boat.

31 ...

32 (13) ~~All of the following drugs, drugs listed in this subdivision, including their~~
 33 ~~packaging materials and any instructions or information about the drugs~~
 34 ~~included in the package with them; them. This subdivision does not apply to~~
 35 ~~pet food or feed for animals. The drugs exempt under this subdivision are as~~
 36 follows:

- 37 a. Drugs required by federal law to be dispensed only on prescription.
 38 b. Over-the-counter drugs sold on prescription. This sub-subdivision
 39 does not apply to purchases of over-the-counter drugs by hospitals and
 40 other medical facilities for use and treatment of patients.
 41 c. Insulin.

42 ...

43 (15) Accounts of purchasers, representing taxable sales, on which the tax imposed
 44 by this Article has been paid, that are found to be worthless and actually
 45 charged off for income tax purposes may, at corresponding periods, be
 46 deducted from gross sales. In the case of a municipality that sells electricity,
 47 the account may be deducted if it meets all the conditions for charge-off that
 48 would apply if the municipality were subject to income tax. Any accounts
 49 deducted pursuant to this subdivision must be added to gross sales if
 50 afterwards collected. For purposes of this exemption, a worthless account of
 51 a purchaser is a "bad debt" as allowed under section 166 of the Code. The

1 amount calculated pursuant to section 166 of the Code must be adjusted to
 2 exclude financing charges or interest, sales or use taxes charged on the sales
 3 price, uncollectible amounts on property that remains in the possession of the
 4 seller until the full purchase price is paid, expenses incurred in attempting to
 5 collect any debt, and repossessed property.

6 ...
 7 (61a) The sales price of or the gross receipts derived from the repair, maintenance,
 8 and installation services and service contracts listed in this subdivision are
 9 exempt from tax. Except as otherwise provided in this subdivision, property
 10 and services used to fulfill either a repair, maintenance, or installation service
 11 or a service contract exempt from tax under this subdivision are taxable. The
 12 list of repair, maintenance, and installation services and service contracts
 13 exempt from tax under this subdivision is as follows:

14 a. ~~An~~ A service and a service contract for an item exempt from tax under
 15 this Article. ~~Article, except as otherwise provided in this subdivision.~~
 16 Property and services used to fulfill a service or service contract
 17 exempt under this sub-subdivision are exempt from tax under this
 18 Article. This exemption does not apply to water for a pool, fish tank,
 19 or similar aquatic feature or to a motor vehicle, except as provided
 20 under subdivision (62a) of this ~~section~~ section and fees under
 21 sub-subdivision b. of this subdivision.

22 ...
 23 p. A security or similar monitoring contract for real property. The
 24 exemption provided in this subdivision does not apply to charges for
 25 repair, maintenance, and installation services to repair security, alarm,
 26 and other similar monitoring systems for real property.

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

28 ...
 29 (70) Gross receipts derived from a rental of an accommodation are exempt as
 30 provided in G.S. 105-164.4F."

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

32 **"§ 105-164.13E. Exemption for farmers.**

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

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

51 ...

1 (c1) Services for Farmer. – A qualifying item listed in subdivision (6) of subsection (a) of
2 this section purchased to fulfill a service for a person who holds a qualifying farmer exemption
3 certificate or a conditional farmer exemption certificate issued under G.S. 105-164.28A is
4 exempt from sales and use tax to the same extent as if purchased directly by the person who holds
5 the exemption certificate. A person that purchases one of the items allowed an exemption under
6 this subsection must provide an exemption certificate to the retailer that includes the name of the
7 purchaser and an exemption number issued to the purchaser by the Department pursuant to
8 G.S. 105-164.28A. A person that purchases an item exempt from tax pursuant to this subsection
9 must maintain records to substantiate that an item is used to provide a service for a person who
10 holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate.

11 "

12 **SECTION 4.9.(b)** This section is effective retroactively to July 1, 2014. A person
13 who paid sales and use tax for a return period ending prior to the date this section becomes law
14 on an item exempt from sales and use tax pursuant to G.S. 105-164.13E, as enacted by this
15 section, may apply to the Department of Revenue for a refund of any excess tax paid to the extent
16 the refund is the result of the change in the law enacted by this section. A request for a refund
17 must be made on or before October 1, 2018. Notwithstanding G.S. 105-241.6, a request for a
18 refund received after this date is barred and the provisions of G.S. 105-164.11 do not apply.

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

20 "(a) **Interstate Carriers.** – An interstate carrier is allowed a refund, in accordance with this
21 section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars
22 and locomotives, and fuel, lubricants, repair parts, accessories, service contracts, and repair,
23 maintenance, and installation services for a motor vehicle, railroad car, locomotive, or airplane
24 the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons or
25 property in interstate commerce for compensation. The Secretary shall prescribe the periods of
26 time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may
27 be claimed, and shall prescribe the time within which, following these periods, an application for
28 refund may be made.

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

- 31 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts,
32 accessories, service contracts, and repair, maintenance, and installation
33 services purchased by the applicant inside or outside this State during the
34 refund period.
- 35 (2) The purchase price of the taxable items listed in subdivision (1) of this
36 subsection. For purposes of this subdivision, the term "taxable" is based on
37 the imposition of tax on the items and services in the State.
- 38 (3) The sales and use taxes paid in this State on the listed items.
- 39 (4) The number of miles the applicant's motor vehicles, railroad cars,
40 locomotives, and airplanes were operated both inside and outside this State
41 during the refund period. Airplane miles are not in this State if the airplane
42 does not depart or land in this State.
- 43 (5) Any other information required by the Secretary.

44 For each applicant, the Secretary shall compute the amount to be refunded as follows. First,
45 the Secretary shall determine the mileage ratio. The numerator of the mileage ratio is the number
46 of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes in
47 this State during the refund period. The denominator of the mileage ratio is the number of miles
48 the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes both inside
49 and outside this State during the refund period. Second, the Secretary shall determine the
50 applicant's proportional liability for the refund period by multiplying this mileage ratio by the
51 purchase price of the items identified in subdivision (1) of this subsection and then multiplying

1 the resulting product by the tax rate that would have applied to the items if they had all been
2 purchased in this State. Third, the Secretary shall refund to each applicant the excess of the
3 amount of sales and use taxes the applicant paid in this State during the refund period on these
4 items over the applicant's proportional liability for the refund period."

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

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

8"

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

10 "**§ 105-164.19. Extension of time for making returns and payment.**

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

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

18 "(a) General. – A general direct pay permit authorizes its holder to purchase certain
19 tangible personal property, digital property, or service without paying tax to the seller and
20 authorizes the seller to not collect any tax on a sale to the permit holder. A general direct pay
21 permit may not be used for purposes identified in subsections (a1), (a2), (a3), or (b) of this
22 section. A person who purchases an item under a direct pay permit issued under this subsection
23 is liable for use tax due on the purchase. The tax is payable when the property is placed in use or
24 the service is received. A direct pay permit issued under this subsection does not apply to taxes
25 imposed under G.S. 105-164.4 on sales of ~~electricity~~ electricity, piped natural gas, video
26 programming, spirituous liquor, or the gross receipts derived from rentals of accommodations.

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

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

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

37 "**§ 105-164.32. Incorrect returns; estimate.**

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

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

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

- 49 (1) A retailer failed to charge sales tax due on separately stated installation
50 charges that are part of the sales price of tangible personal property or digital
51 property sold at retail.

- 1 (2) A person failed to properly classify themselves as a retailer in retail trade for
2 the period beginning March 1, 2016, and ending December 31, 2016, and did
3 not charge sales tax on all retail transactions but rather treated some
4 transactions as real property contracts in error for sales and use tax purposes.
5 This subdivision does not prohibit the Secretary from assessing use tax on
6 purchases used to fulfill a transaction erroneously treated as a real property
7 contract.
- 8 (3) A person treated a transaction as a real property contract in error and did not
9 collect sales tax on the transaction as a retail sale. This subdivision does not
10 prohibit the Secretary from assessing use tax on purchases used to fulfill a
11 transaction erroneously treated as a real property contract.
- 12 (4) A person failed to collect sales tax on the sales price of a service contract for
13 one or more components, systems, or accessories for a motor vehicle on or
14 after March 1, 2016, and prior to January 1, 2017, where the contract was sold
15 by a motor vehicle dealer, a motor vehicle service agreement company, or a
16 motor vehicle dealer on behalf of a motor vehicle service agreement company.
- 17 (5) A person failed to collect sales tax on the retail sale of a service contract for
18 tangible personal property that becomes a part of or is affixed to real property.
- 19 (6) A person failed to collect sales tax on the retail sale of a service contract for a
20 pool, a fish tank, or similar aquatic feature on or after January 1, 2017, and
21 prior to January 1, ~~2018, 2019~~, provided the person paid tax on any purchases
22 used to fulfill the service contract.
- 23 (7) A person failed to collect sales tax on the sales price of or the gross receipts
24 derived from the retail sale of a home warranty on or after January 1, 2017,
25 and prior to January 1, ~~2018, 2019~~, provided the warranty includes coverage
26 for real property.
- 27 (8) A person failed to collect sales tax on the taxable portion of a mixed service
28 contract for repair, maintenance, and installation services that exceeds ten
29 percent (10%) for a transaction prior to January 1, 2017, on or after January 1,
30 2017, and prior to January 1, 2019. This subdivision does not prohibit the
31 Secretary from assessing use tax on purchases used to fulfill a mixed contract.
- 32 (8a) A person failed to collect sales tax on the taxable portion of a mixed
33 transaction contract that exceeds twenty-five percent (25%) for a transaction
34 on or after January 1, 2017, and prior to January 1, 2019. This subdivision
35 does not prohibit the Secretary from assessing use tax on purchases used to
36 fulfill a mixed transaction contract.
- 37 (8b) A person failed to collect sales tax on the taxable portion of a bundled
38 transaction that included a contract for two more services, one of which was
39 subject to tax and one of which was not subject to tax, for a transaction on or
40 after March 1, 2016, and prior to January 1, 2017.
- 41 (9) A person treats a transaction as a real property contract for remodeling instead
42 of the retail sale of repair, maintenance, and installation services sold at retail
43 prior to January 1, ~~2018, 2019~~. This subdivision does not prohibit the
44 Secretary from assessing use tax on purchases used to fulfill the transaction.
- 45 (10) A person failed to collect sales tax on repair, maintenance, and installation
46 services for tangible personal property, motor vehicles, and digital property."

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

48 "(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this
49 Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or
50 repair tangible personal property pursuant to a service contract exempt from tax under
51 ~~G.S. 105-164.41(b)(4); G.S. 105-164.13(61a)a."~~

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

2 "(a1) Substantiation. – Generally, services to real property are retail sales of or the gross
3 receipts derived ~~from~~, ~~from~~ repair, maintenance, and installation services and subject to tax in
4 accordance with G.S. 105-164.4(a)(16), unless a person substantiates that a transaction is subject
5 to tax as a real property contract in accordance with subsection (a) of this section, subject to tax
6 as a mixed transaction in accordance with subsection (d) of this section, or the transaction is not
7 subject to tax. A person may substantiate that a transaction is a real property contract or a mixed
8 transaction by records that establish the transaction is a real property contract or by receipt of an
9 affidavit of capital improvement. The receipt of an affidavit of capital improvement, absent fraud
10 or other egregious activities, establishes that the subcontractor or other person receiving the
11 affidavit should treat the transaction as a capital improvement, and the transaction is subject to
12 tax in accordance with subsection (a) of this section. A person that issues an affidavit of capital
13 improvement is liable for any additional tax due on the transaction, in excess of tax paid on
14 related purchases under subsection (a) of this section, if it is determined that the transaction is
15 not a capital improvement but rather the transaction is subject to tax as a retail sale. A person
16 who receives an affidavit of capital improvement from another person, absent fraud or other
17 egregious activities, is not liable for any additional tax on the gross receipts from the transaction
18 if it is determined that the transaction is not a capital improvement.

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

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

23 "**§ 105-164.22. Record-keeping requirements, inspection authority, and effect of failure to**
24 **keep records.**

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

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

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

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

40 **SECTION 4.19.** G.S. 105-164.4G(f) reads as rewritten:

41 "(f) Exemptions. – The sale at retail and the use, storage, or consumption in this State of
42 the following gross receipts derived from an admission charge to an entertainment activity are
43 specifically exempt from the tax imposed by this Article:

44 (1) The portion of a membership charge that is deductible as a charitable
45 contribution under section 170 of the ~~Code~~. Code or that is described in section
46 170(l)(2) of the Code.

47 (2) A donation that is deductible as a charitable contribution under section 170 of
48 the ~~Code~~. Code or that is described in section 170(l)(2) of the Code.

49 "

50 **SECTION 4.20.** G.S. 105-164.7 reads as rewritten:

51 "**§ 105-164.7. Retailer or facilitator to collect sales tax from purchaser as trustee for State.**

1 The sales tax imposed by this Article is intended to be passed on to the purchaser of a taxable
2 item or service and borne by the purchaser instead of by the retailer. A retailer must collect the
3 tax due on an item or service when ~~the item is~~ sold at retail. The requirements of this section
4 apply to facilitators liable for tax under this Article. The tax is a debt from the purchaser to the
5 retailer until paid and is recoverable at law by the retailer in the same manner as other debts. A
6 retailer is considered to act as a trustee on behalf of the State when it collects tax from the
7 purchaser ~~of on~~ a taxable ~~item sale~~. The tax must be stated and charged separately on the invoices
8 or other documents of the retailer given to the purchaser at the time of the sale except for either
9 of the following:

10 (1) Vending machine sales.

11 (2) Where a retailer displays a statement indicating the sales price includes the
12 tax."

13 **SECTION 4.21.** G.S. 105-471 reads as rewritten:

14 **"§ 105-471. Retailer to collect sales tax.**

15 Every ~~retailer whose place of business is~~ person liable for tax in a taxing county shall on and
16 after the levy of the tax herein authorized collect the one percent (1%) local sales tax provided
17 by this Article. A ~~retailer person~~ is required to collect a local use tax on a transaction if a local
18 sales tax does not apply to the transaction in accordance with G.S. 105-164.8(c).

19 The tax to be collected under this Article shall be collected as a part of the sales price of an
20 item or transaction subject to tax in accordance with G.S. 105-467. The tax shall be stated and
21 charged separately from the sales price or purchase price and shall be shown separately on the
22 ~~retailer's sales record record,~~ except as provided in G.S. 105-164.7, and shall be paid by the
23 purchaser to the ~~retailer person liable for the tax~~ as trustee for and on account of the State or
24 county wherein the tax is imposed. It is the intent and purpose of this Article that the local sales
25 and use tax herein authorized to be imposed and levied by a taxing county shall be added to the
26 sales price and that the tax shall be passed on to the purchaser instead of being borne by the
27 ~~retailer person liable for the tax.~~ The Secretary of Revenue shall ~~design, print and furnish to all~~
28 ~~retailers in a taxing county in which he shall collect and administer the tax~~ design the necessary
29 forms for filing returns and instructions to insure the full collection from ~~retailers, a person liable~~
30 for this tax, and the Secretary may adapt the present form used for the reporting and collecting
31 of the State sales and use tax to this purpose."
32

33 **PART V. EXCISE TAX CHANGES**

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

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

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

42 **"§ 105-113.36. Wholesale dealer and retail dealer must obtain license.**

43 A wholesale dealer shall obtain for each place of business a continuing tobacco products
44 license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail dealer shall
45 obtain for each place of business a continuing tobacco products license and shall pay a tax of ten
46 dollars (\$10.00) for the license. A "place of business" is a place where a wholesale dealer ~~or~~
47 ~~where a retail dealer~~ makes tobacco products other than cigarettes or a wholesale dealer or a retail
48 dealer receives or stores non-tax-paid tobacco products other than cigarettes."

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

51 **"§ 105-113.83A. Registration and discontinuance requirements; penalties.**

1 (a) Registration Required. – A person who holds a wine shipper permit issued under
2 G.S. 18B-1001.1 or one or more of the following ABC permits issued under Article 11 of Chapter
3 18B of the General Statutes must register with the Secretary:

- 4 (1) Unfortified winery.
- 5 (2) Fortified winery.
- 6 (3) Brewery.
- 7 (4) Distillery.
- 8 (5) Wine importer.
- 9 (6) Wine wholesaler.
- 10 (7) Malt beverages importer.
- 11 (8) Malt beverages wholesaler.
- 12 (9) Nonresident malt beverage vendor.
- 13 (10) Nonresident wine vendor.
- 14 (11) Wine Producer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 **"SECTION 2.(b)** An establishment to which permits may be issued pursuant to
37 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section
38 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment
39 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel
40 excise tax rate for an establishment to which permits may be issued pursuant to
41 G.S. 18B-1006(n1), as enacted by this act, is ~~eighteen cents (18¢)~~twenty cents (20¢) per gallon.
42 The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate
43 imposed by this section with the rate levied by the State of South Carolina on motor fuels and
44 may recommend a change in the rate imposed by this section to an amount no greater than the
45 rate then in effect for the State of South Carolina. An establishment designated as a special class
46 of property by this section may obtain monthly refunds on the difference between the motor fuel
47 excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section.
48 The Department shall calculate for each calendar year the difference between the motor fuel
49 excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an
50 establishment classified by this section in the absence of this classification and the motor fuel
51 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.

1 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,
2 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The
3 difference in taxes shall be carried forward in the records of the Department as deferred taxes.
4 The deferred taxes for the preceding three calendar years are due and payable on the day this
5 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,
6 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the
7 tax value of the property. A disqualifying event occurs when the title to the real property
8 underlying the establishment is transferred to a new owner. A lien for deferred taxes is
9 extinguished when the amount required by this subsection is paid."

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

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

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

39 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to
40 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section
41 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment
42 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel
43 excise tax rate for an establishment to which permits may be issued pursuant to
44 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-two cents (22¢)~~twenty-four cents (24¢) per
45 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax
46 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels
47 and may recommend a change in the rate imposed by this section to an amount no greater than
48 the rate then in effect for the State of South Carolina. An establishment designated as a special
49 class of property by this section may obtain monthly refunds on the difference between the motor
50 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this
51 section. The Department shall calculate for each calendar year the difference between the motor

1 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by
2 an establishment classified by this section in the absence of this classification and the motor fuel
3 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.
4 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,
5 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The
6 difference in taxes shall be carried forward in the records of the Department as deferred taxes.
7 The deferred taxes for the preceding three calendar years are due and payable on the day this
8 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,
9 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the
10 tax value of the property. A disqualifying event occurs when the title to the real property
11 underlying the establishment is transferred to a new owner. A lien for deferred taxes is
12 extinguished when the amount required by this subsection is paid."

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

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

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

42 **"SECTION 2.(b)** An establishment to which permits may be issued pursuant to
43 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section
44 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment
45 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel
46 excise tax rate for an establishment to which permits may be issued pursuant to
47 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-six cents (26¢)~~ twenty-eight cents (28¢) per
48 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax
49 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels
50 and may recommend a change in the rate imposed by this section to an amount no greater than
51 the rate then in effect for the State of South Carolina. An establishment designated as a special

1 class of property by this section may obtain monthly refunds on the difference between the motor
2 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this
3 section. The Department shall calculate for each calendar year the difference between the motor
4 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by
5 an establishment classified by this section in the absence of this classification and the motor fuel
6 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.
7 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,
8 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The
9 difference in taxes shall be carried forward in the records of the Department as deferred taxes.
10 The deferred taxes for the preceding three calendar years are due and payable on the day this
11 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,
12 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the
13 tax value of the property. A disqualifying event occurs when the title to the real property
14 underlying the establishment is transferred to a new owner. A lien for deferred taxes is
15 extinguished when the amount required by this subsection is paid."
16

17 PART VI. OTHER TAX CHANGES

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

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

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

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

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

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

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

38 **"§ 105-282.1. Applications for property tax exemption or exclusion; annual review of**
39 **property exempted or excluded from property tax.**

40 (a) Application. – Every owner of property claiming exemption or exclusion from
41 property taxes under the provisions of this Subchapter has the burden of establishing that the
42 property is entitled to it. If the property for which the exemption or exclusion is claimed is
43 appraised by the Department of Revenue, the application shall be filed with the Department.
44 Otherwise, the application shall be filed with the assessor of the county in which the property is
45 situated. An application must contain a complete and accurate statement of the facts that entitle
46 the property to the exemption or exclusion and must indicate the municipality, if any, in which
47 the property is located. Each application filed with the Department of Revenue or an assessor
48 shall be submitted on a form approved by the Department. Application forms shall be made
49 available by the assessor and the Department, as appropriate.

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

1 ...
 2 (2) Single application required. – An owner of one or more of the following
 3 properties eligible for a property tax benefit must file an application for the
 4 benefit to receive it. Once the application has been approved, the owner does
 5 not need to file an application in subsequent years unless new or additional
 6 property is acquired or improvements are added or removed, necessitating a
 7 change in the valuation of the property, or there is a change in the use of the
 8 property or the qualifications or eligibility of the taxpayer necessitating a
 9 review of the benefit.

10 ...
 11 b. Special classes of property excluded from taxation under
 12 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),
 13 (36), (38), (39), (41), ~~or (45)~~(45), (46), (47), (48), or (49) or under
 14 G.S. 131A-21.

15"
 16 **SECTION 6.4.(a)** G.S. 153A-155(c) reads as rewritten:

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

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

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

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

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

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

48 If a taxable accommodation is furnished as part of a package, the bundled transaction
 49 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable
 50 accommodation. If those provisions do not address the type of package offered, the person
 51 offering the package may determine an allocated price for each item in the package based on a

1 reasonable allocation of revenue that is supported by the person's business records kept in the
2 ordinary course of business and calculate tax on the allocated price of the taxable
3 accommodation.

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

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

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

12 **"§ 130A-247. Definitions.**

13 The following definitions shall apply throughout this Part:

14 ...

15 (5a) "Bed and breakfast home" means a business in a private home of not more
16 than eight guest rooms that offers bed and breakfast accommodations for a
17 period of less than one week and that meets all of the following criteria:

- 18 a. Does not serve food or drink to the general public for pay.
- 19 b. Serves the breakfast meal, the lunch meal, the dinner meal, or a
20 combination of all or some of these three meals, only to overnight
21 guests of the home.
- 22 c. Includes the price of breakfast in the room rate. The price of additional
23 meals served ~~may be added to the room rate~~ shall be listed as a separate
24 charge on the overnight guest's bill at the conclusion of the overnight
25 guest's stay.
- 26 d. Is the permanent residence of the owner or the manager of the
27 business.

28 (6) "Bed and breakfast inn" means a business of at least nine but not more than
29 12 guest rooms that offers bed and breakfast accommodations for a period of
30 less than one week, and that meets all of the following requirements:

- 31 a. Does not serve food or drink to the general public for pay.
- 32 b. Serves the breakfast meal, the lunch meal, the dinner meal, or a
33 combination of all or some of these three meals only to overnight
34 guests of the business.
- 35 c. Includes the price of breakfast in the room rate. The price of additional
36 meals served ~~may be added to the room rate at the conclusion of the~~
37 ~~overnight guest's stay~~ shall be listed as a separate charge on the
38 overnight guest's bill at the conclusion of the overnight guest's stay.
- 39 d. Is the permanent residence of the owner or the manager of the
40 business.

41"

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

50 **SECTION 6.6.** A municipality that is holding sales and use tax revenue distributed
51 to it that is restricted for water and sewage capital outlay purposes, as required under

1 G.S. 105-487(b) and G.S. 105-504, repealed effective August 14, 1998, under S.L. 1998-98, may
2 use the restricted revenue as follows:

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

10 (2) A municipality that owns or operates a water or sewer system must use the
11 revenue for its restricted purpose. The municipality may petition the Local
12 Government Commission to waive part or all of the restriction, as allowed
13 under G.S. 105-487(c).

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

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

16 **"§ 105-129.39. Sunset.**

17 This Article expires for qualified rehabilitation expenditures and rehabilitation expenses
18 incurred on or after January 1, 2015. For qualified rehabilitation expenditures and rehabilitation
19 expenses incurred prior to January 1, 2015, this Article expires for property not placed in service
20 by January 1, 2023."

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

22 **"§ 105-129.110. Sunset.**

23 This Article expires for qualified rehabilitation expenditures and rehabilitation expenses
24 incurred on or after January 1, 2020. For qualified rehabilitation expenditures and rehabilitation
25 expenses incurred prior to January 1, 2020, this Article expires for property not placed in service
26 by January 1, 2028."

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

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

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

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

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

34 **"§ 105-163.7. Statement to employees; information to Secretary.**

35 ...

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

47 ...

48 (d) Deduction Disallowance. – The Secretary may request a person who fails to timely
49 file statements of payment to another person with respect to wages, dividends, rents, or interest
50 paid to that person to file the statements by a certain date. If the payer fails to file the statements
51 by that date, and, in addition to any applicable penalty under G.S. 105-236, the amounts claimed

1 on the payer's income tax return as deductions for salaries and wages or rents or interest shall be
 2 disallowed to the extent that the payer failed to comply with the Secretary's request with respect
 3 to the statements."

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

5 "**§ 105-251.2. Compliance information requests, informational returns.**

6 (a) Occupational Licensing Board. – An occupational licensing board must give
 7 information to the Secretary when the Secretary requests the information. The Secretary may not
 8 request the information more than one time per calendar year. The Secretary may request the
 9 board to provide on a return, a report, or otherwise, a licensee's name, license number, tax
 10 identification number, business address, and any other information pertaining to the licensee in
 11 possession of the board that the Secretary deems necessary to determine the licensee's compliance
 12 with this Chapter. For purposes of this subsection, the term "occupational licensing board" has
 13 the same meaning as defined in G.S. 93B-1.

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

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

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

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

25 (4) The holder of an unfortified winery permit, a fortified winery permit, a
 26 brewery permit, or a distillery permit under G.S. 18B-1100.

27 (c) Payment Settlement Entity. – For any year in which a payment settlement entity is
 28 required to make a return pursuant to section 6050W of the Code, the entity shall submit the
 29 information in the return to the Secretary at the time the return is made. For purposes of this
 30 subsection, the term "payment settlement entity" has the same meaning as provided in section
 31 6050W of the Code.

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

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

36 "**§ 105-236. Penalties; situs of violations; penalty disposition.**

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

38 ...

39 (10) ~~Failure to File~~ Penalties Regarding Informational Returns. – The following
 40 penalties apply with regard to an informational return required by Article 4A,
 41 5, 9, 36C, or 36D of this Chapter:

42 a. Repealed by Session Laws 1998-212, s. 29A.14(m), effective January
 43 1, 1999.

44 b. ~~The Secretary may request a person who fails to file timely statements~~
 45 ~~of payment to another person with respect to wages, dividends, rents,~~
 46 ~~or interest paid to that person to file the statements by a certain date.~~
 47 ~~If the payer fails to file the statements by that date, the amounts~~
 48 ~~claimed on the payer's income tax return as deductions for salaries and~~
 49 ~~wages, or rents or interest shall be disallowed to the extent that the~~
 50 ~~payer failed to comply with the Secretary's request with respect to the~~
 51 ~~statements.~~

- 1 c. For failure to file with the Secretary ~~an informational return required~~
 2 ~~by Article 4A, 36C, or 36D of this Chapter~~ by the date the return is
 3 due, ~~there shall be assessed~~ the Secretary shall assess a penalty of fifty
 4 dollars ~~(\$50.00)-(\$50.00)~~ per day, up to a maximum penalty of one
 5 thousand dollars ~~(\$1,000.00)~~.
- 6 d. For failure to file in the format prescribed by the Secretary, the
 7 Secretary shall assess a penalty of two hundred dollars (\$200.00).

8"

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

10 "**§ 105-263. Timely filing of mailed documents and requests for extensions.**

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

13 (b) Extension. – The Secretary may extend the time in which a person must file a return
 14 with the Secretary. To obtain an extension of time for filing a return, a person must comply with
 15 any application requirement set by the Secretary. An extension of time for filing a franchise tax
 16 return or an income tax return does not extend the time for paying the tax due or the time when
 17 a penalty attaches for failure to pay the tax. An extension of time for filing any return other than
 18 a franchise tax return or an income tax return extends the time for paying the tax due and the time
 19 when a penalty attaches for failure to pay the tax. When an extension of time for filing a return
 20 extends the time for paying the tax expected to be due with the return, interest, at the rate
 21 established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the
 22 return to the date the tax is paid.

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

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

28 "**§ 105-241A. Electronic filing of returns.**

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

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

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

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

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

1 (e) Notice to Taxpayers. – The Department shall, by December 1 of each year, publish
2 on its Web site a list of returns required to be filed electronically and permitted to be filed
3 electronically during the next calendar year."
4

5 **PART VII. INSURANCE REGULATORY CHARGE**

6 **SECTION 7.1.** The percentage rate to be used in calculating the insurance regulatory
7 charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2019 calendar year.
8

9 **PART VIII. DEPARTMENT OF REVENUE/INFORMATION TECHNOLOGY** 10 **TRANSITION TO DEPARTMENT OF INFORMATION TECHNOLOGY**

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

12 **"§ 105-259. Secrecy required of officials; penalty for violation.**

13 ...

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

21 "

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

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

- 27 (1) Department of Natural and Cultural Resources.
- 28 (2) Department of Health and Human Services.
- 29 ~~(3) Department of Revenue.~~
- 30 (4) Department of Environmental Quality.
- 31 (5) Department of Transportation.
- 32 (6) Department of Administration.
- 33 (7) Department of Commerce.
- 34 (8) Governor's Office.
- 35 (9) Office of State Budget and Management.
- 36 (10) Office of State Human Resources.
- 37 (11) Repealed by Session Laws 2016-94, s. 7.11(a), effective July 1, 2016.
- 38 (12) Department of Military and Veterans Affairs.
- 39 (13) Department of Public Safety, with the exception of the following:
 - 40 a. State Bureau of Investigation.
 - 41 b. State Highway Patrol.
 - 42 c. Division of Emergency Management.

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

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

46 "(d) Report on Transition Planning. – The Community College System Office, the
47 Department of Public Instruction, ~~the Department of Revenue,~~ and the Bipartisan State Board of
48 Elections and Ethics Enforcement shall work with the State CIO to plan their transition to the
49 Department. The information technology transfer and consolidation from the Department of
50 Revenue to the Department ~~may~~ shall not take place until the Secretary of the Department of
51 Revenue determines that the system and data security of the Department meets the heightened

1 security standards required by the federal government for purposes of sharing taxpayer
2 information. By October 1, 2018, these agencies, in conjunction with the State CIO, shall report
3 to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research
4 Division on their respective transition plans."

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

7
8 **PART IX. EFFECTIVE DATE**

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