

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL DRS15274-SVxf-11A\*

Short Title: Tax Reduction Act of 2019.

(Public)

Sponsors: Senators Tillman, Hise, and Newton (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE STANDARD DEDUCTION, TO SIMPLIFY THE  
3 FRANCHISE TAX BASE, TO LOWER THE FRANCHISE TAX RATE, TO REQUIRE  
4 MARKETPLACE FACILITATORS TO COLLECT AND REMIT SALES AND USE TAX  
5 ON MARKETPLACE FACILITATED SALES, AND TO MAKE OTHER TAX LAW  
6 CHANGES.

7 The General Assembly of North Carolina enacts:

8  
9 **PART I. PERSONAL INCOME TAX CHANGES**

10 **SECTION 1.1.(a)** G.S. 105-153.5(a)(1) reads as rewritten:

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

<b>Filing Status</b>	<b>Standard Deduction</b>
Married, filing jointly/surviving spouse	<del>\$20,000</del> \$20,750
Head of Household	<del>15,000</del> 15,563
Single	<del>10,000</del> 10,375
Married, filing separately	<del>10,000</del> 10,375."

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20 **SECTION 1.1.(b)** This section is effective for taxable years beginning on or after  
21 January 1, 2021.

22 **SECTION 1.2.(a)** G.S. 105-153.5(a)(2)a. reads as rewritten:

23 "a. Charitable Contribution. – The amount allowed as a deduction for  
24 charitable contributions under section 170 of the Code for that taxable  
25 year. For taxable years ~~beginning on or after 2014, 2014 through 2018,~~  
26 a taxpayer who elected to take the income exclusion under section  
27 408(d)(8) of the Code for a qualified charitable distribution from an  
28 individual retirement plan by a person who has attained the age of 70  
29 1/2 may deduct the amount that would have been allowed as a  
30 charitable deduction under section 170 of the Code had the taxpayer  
31 not elected to take the income exclusion."

32 **SECTION 1.2.(b)** G.S. 105-153.5(c2)(3) reads as rewritten:

33 "(3) For taxable years ~~beginning on or after 2014, 2014 through 2018,~~ the taxpayer  
34 must add the amount excluded from the taxpayer's gross income for a qualified  
35 charitable distribution from an individual retirement plan by a person who has  
36 attained age 70 1/2 under section 408(d)(8) of the Code. The purpose of this



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1 subdivision is to decouple from the income exclusion available under federal  
2 tax law."

3 **SECTION 1.2.(c)** This section is effective when it becomes law.  
4

5 **PART II. FRANCHISE TAX CHANGES**

6 **SECTION 2.1.(a)** G.S. 105-120.2(b) reads as rewritten:

7 "(b) Tax Rate. – Every corporation taxed under this section shall annually pay to the  
8 Secretary of Revenue, at the time the return is due, the greater of the following:

9 (1) A franchise or privilege tax at the rate of ~~one dollar and fifty cents (\$1.50)~~ set  
10 in G.S. 105-122(d2) per one thousand dollars (\$1,000) of the amount  
11 determined under subsection (a) of this section, but in section. In no case shall  
12 the tax be more than one hundred fifty thousand dollars (\$150,000) nor less  
13 than two hundred dollars (\$200.00).

14 (2) If the tax calculated under this subdivision exceeds the tax calculated under  
15 subdivision (1) of this subsection, then the tax is levied at the rate of ~~one dollar~~  
16 ~~and fifty cents (\$1.50)~~ set in G.S. 105-122(d2) per one thousand dollars  
17 (\$1,000) on the greater of the following: the total actual investment in tangible  
18 property in this State of such corporation as computed under G.S. 105-122(d).

19 a. ~~Fifty five percent (55%) of the appraised value as determined for ad~~  
20 ~~valorem taxation of all the real and tangible personal property in this~~  
21 ~~State of each such corporation plus the total appraised value of~~  
22 ~~intangible property returned for taxation of intangible personal~~  
23 ~~property as computed under G.S. 105-122(d).~~

24 b. ~~The total actual investment in tangible property in this State of such~~  
25 ~~corporation as computed under G.S. 105-122(d)."~~

26 **SECTION 2.1.(b)** G.S. 105-122(d)(2) is repealed.

27 **SECTION 2.1.(c)** G.S. 105-122(d2) reads as rewritten:

28 "(d2) Tax Rate. – For an electric power company or a company that is a member of a  
29 qualified group, the tax rate is one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000)  
30 of the company's tax base as determined under subsection (d) of this section. For purposes of this  
31 subsection, the term "electric power company" has the same meaning as defined in  
32 G.S. 105-130.4(s3) and the term "qualified group" means an affiliated group that has one or more  
33 members that is an electric power company.

34 ~~For a C Corporation, For all other C Corporations, as defined in G.S. 105-130.2, [the] the tax~~  
35 ~~rate is one dollar and fifty cents (\$1.50) one dollar and thirty cents (\$1.30) per one thousand~~  
36 ~~dollars (\$1,000) of the corporation's tax base as determined under subsection (d) of this section.~~  
37 ~~For an S Corporation, as defined in G.S. 105-130.2, the tax rate is two hundred dollars (\$200.00)~~  
38 ~~for the first one million dollars (\$1,000,000) of the corporation's tax base as determined under~~  
39 ~~subsection (d) of this section and one dollar and fifty cents (\$1.50) one dollar and thirty cents~~  
40 ~~(\$1.30) per one thousand dollars (\$1,000) of its tax base that exceeds one million dollars~~  
41 ~~(\$1,000,000).~~

42 In no event may the tax imposed by this section be less than two hundred dollars (\$200.00)."

43 **SECTION 2.1.(d)** This section is effective for taxable years beginning on or after  
44 January 1, 2020, and applicable to the calculation of franchise tax reported on the 2019 and later  
45 corporate income tax returns.

46 **SECTION 2.2.(a)** G.S. 105-122(d2), as amended by Section 2.1(c) of this Part, reads  
47 as rewritten:

48 "(d2) Tax Rate. – For an electric power company or a company that is a member of a  
49 qualified group, the tax rate is one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000)  
50 of the company's tax base as determined under subsection (d) of this section. For purposes of this  
51 subsection, the term "electric power company" has the same meaning as defined in

1 G.S. 105-130.4(s3) and the term "qualified group" means an affiliated group that has one or more  
2 members that is an electric power company.

3 For all other C Corporations, as defined in G.S. 105-130.2, the tax rate is ~~one dollar and thirty~~  
4 ~~cents (\$1.30)~~ one dollar (\$1.00) per one thousand dollars (\$1,000) of the corporation's tax base  
5 as determined under subsection (d) of this section. For an S Corporation, as defined in  
6 G.S. 105-130.2, the tax rate is two hundred dollars (\$200.00) for the first one million dollars  
7 (\$1,000,000) of the corporation's tax base as determined under subsection (d) of this section and  
8 ~~one dollar and thirty cents (\$1.30)~~ one dollar (\$1.00) per one thousand dollars (\$1,000) of its tax  
9 base that exceeds one million dollars (\$1,000,000).

10 In no event may the tax imposed by this section be less than two hundred dollars (\$200.00)."

11 **SECTION 2.2.(b)** This section is effective for taxable years beginning on or after  
12 January 1, 2021, and applicable to the calculation of franchise tax reported on the 2020 and later  
13 corporate income tax returns.

14 **SECTION 2.3.(a)** G.S. 105-122(d2), as amended by Sections 2.1(c) and 2.2(a) of  
15 this Part, reads as rewritten:

16 "(d2) Tax Rate. – ~~For an electric power company or a company that is a member of a~~  
17 ~~qualified group, the tax rate is one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000)~~  
18 ~~of the company's tax base as determined under subsection (d) of this section. For purposes of this~~  
19 ~~subsection, the term "electric power company" has the same meaning as defined in G.S. 105-~~  
20 ~~130.4(s3) and the term "qualified group" means an affiliated group that has one or more members~~  
21 ~~that is an electric power company.~~

22 ~~For all other C Corporations,~~ For a C Corporation, as defined in G.S. 105-130.2, the tax rate  
23 is one dollar (\$1.00) per one thousand dollars (\$1,000) of the corporation's tax base as determined  
24 under subsection (d) of this section. For an S Corporation, as defined in G.S. 105-130.2, the tax  
25 rate is two hundred dollars (\$200.00) for the first one million dollars (\$1,000,000) of the  
26 corporation's tax base as determined under subsection (d) of this section and one dollar (\$1.00)  
27 per one thousand dollars (\$1,000) of its tax base that exceeds one million dollars (\$1,000,000).

28 In no event may the tax imposed by this section be less than two hundred dollars (\$200.00)."

29 **SECTION 2.3.(b)** This section is effective for taxable years beginning on or after  
30 January 1, 2027, and applicable to the calculation of franchise tax reported on the 2026 and later  
31 corporate income tax returns.

### 32 **PART III. USE MARKET-BASED SOURCING FOR MULTISTATE INCOME TAX** 33 **APPORTIONMENT**

34 **SECTION 3.1.** G.S. 105-130.4 reads as rewritten:

35 **"§ 105-130.4. Allocation and apportionment of income for corporations.**

36 ...

37  
38 (l) ~~(4)~~ Sales Factor. – The sales factor is a fraction, the numerator of which is the total  
39 sales of the corporation in this State during the income year, and the denominator of which is the  
40 total sales of the corporation everywhere during the income year. Notwithstanding any other  
41 provision under this Part, the receipts from any casual sale of property shall be excluded from  
42 both the numerator and the denominator of the sales factor. Where a corporation is not taxable in  
43 another state on its apportionable income but is taxable in another state only because of  
44 nonapportionable income, all sales shall be treated as having been made in this State.

45 Receipts are in this State if the taxpayer's market for the receipts is in this State. If the market  
46 for a receipt cannot be determined, the state or states of assignment shall be reasonably  
47 approximated. In a case in which a taxpayer cannot ascertain the state or states to which receipts  
48 of a sale are to be assigned through the use of a method of reasonable approximation, the receipts  
49 must be excluded from the denominator of a taxpayer's sales factor. Except as otherwise provided  
50 by this section, a taxpayer's market for receipts is in this State as provided below:

- 1           (1)    In the case of sale, rental, lease, or license of real property, if and to the extent  
2           the property is located in this State.
- 3           (2)    In the case of rental, lease, or license of tangible personal property, if and to  
4           the extent the property is located in this State.~~Sales of tangible personal~~  
5           ~~property are in this State if the property is received in this State by the~~  
6           ~~purchaser. In the case of delivery of goods by common carrier or by other~~  
7           ~~means of transportation, including transportation by the purchaser, the place~~  
8           ~~at which the goods are ultimately received after all transportation has been~~  
9           ~~completed shall be considered as the place at which the goods are received by~~  
10           ~~the purchaser. Direct delivery into this State by the taxpayer to a person or~~  
11           ~~firm designated by a purchaser from within or without the State shall~~  
12           ~~constitute delivery to the purchaser in this State.~~
- 13           (3)    In the case of sale of tangible personal property, if and to the extent the  
14           property is received in this State by the purchaser. In the case of delivery of  
15           goods by common carrier or by other means of transportation, including  
16           transportation by the purchaser, the place at which the goods are ultimately  
17           received after all transportation has been completed is considered the place at  
18           which the goods are received by the purchaser. Direct delivery into this State  
19           by the taxpayer to a person or firm designated by a purchaser from within or  
20           without the State constitutes delivery to the purchaser in this State.~~Other sales~~  
21           ~~are in this State if any of the following occur:~~
- 22           a.     ~~The receipts are from real or tangible personal property located in this~~  
23           ~~State, and includes receipts from incidental services sold as part of, or~~  
24           ~~in connection with, the sale of tangible personal property in this State.~~
- 25           b.     ~~The receipts are from intangible property and are received from~~  
26           ~~sources within this State.~~
- 27           c.     ~~The receipts are from services and the income producing activities are~~  
28           ~~in this State. For the purposes of this subdivision, an~~  
29           ~~"income producing activity" means an activity directly performed by~~  
30           ~~the taxpayer or its agents for the ultimate purpose of generating the~~  
31           ~~sale of the service. Receipts from income producing activities~~  
32           ~~performed within and without this State are attributed to this State in~~  
33           ~~proportion to the income producing activities performed in this State~~  
34           ~~to total income producing activities performed everywhere that~~  
35           ~~generate the sale of service.~~
- 36           (4)    In the case of sale of a service, if and to the extent the service is delivered to  
37           a location in this State.
- 38           (5)    In the case of intangible property that is rented, leased, or licensed, if and to  
39           the extent the property is used in this State. Intangible property utilized in  
40           marketing a good or service to a consumer is "used in this State" if that good  
41           or service is purchased by a consumer who is in this State.
- 42           (6)    In the case of intangible property that is sold, if and to the extent the property  
43           is used in this State. A contract right, government license, or similar intangible  
44           property that authorized the holder to conduct a business activity in a specific  
45           geographic area is "used in this State" if the geographic area includes all or  
46           part of this State. Receipts from a sale of intangible property that is contingent  
47           on the productivity, use, or disposition of the intangible property shall be  
48           treated as receipts from the rental, lease, or licensing of the intangible property  
49           as provided under subdivision (5) of this subsection. All other receipts from a  
50           sale of intangible property shall be excluded from the numerator and  
51           denominator of the sales factor.

1       (1) Broadcasters. – A broadcaster's market for receipts is in this State as provided in  
2 G.S. 105-130.4A. For purposes of this section, the term "broadcaster" has the same meaning as  
3 defined in G.S. 105-130.4A.

4       (2) Banks. – A bank's market for receipts is in this State as provided in G.S. 105-130.4A.  
5 For purposes of this section, the term "bank" has the same meaning as defined in  
6 G.S. 105-130.4B.

7       ....

8       (s3) Electric Power Company. – All apportionable income of an electric power company  
9 shall be apportioned by a fraction, the numerator of which is the average value of the real and  
10 tangible personal property owned or rented and used in this State by the electric power company  
11 during the income year and the denominator of which is the average value of all the real and  
12 tangible personal property owned or rented and used by the electric power company during the  
13 income year. For purposes of this subsection, the term "electric power company" is a company,  
14 including any of its wholly owned noncorporate limited liability companies, primarily engaged  
15 in the business of supplying electricity for light, heat, current, or power to persons in this State  
16 and that is subject to control of one or more of the following entities: the North Carolina Utilities  
17 Commission or the Federal Energy Regulatory Commission.

18       For purposes of this subsection, the average value of real and tangible personal property  
19 owned or rented by an electric power company is determined as follows:

20           (1) The average value of property shall be determined by averaging the values at  
21 the beginning and end of the income year, but in all cases the Secretary may  
22 require the averaging of monthly or other periodic values during the income  
23 year if reasonably required to reflect properly the average value of the  
24 corporation's property.

25           (2) An electric power company that ceases its operations in this State before the  
26 end of its income year because of its intention to dissolve or to relinquish its  
27 certificate of authority, or because of a merger, conversion, or consolidation,  
28 or for any other reason whatsoever shall use the real estate and tangible  
29 personal property values as of the first day of the income year and the last day  
30 of its operations in this State in determining the average value of property, but  
31 the Secretary may require averaging of monthly or other periodic values  
32 during the income year if reasonably required to reflect properly the average  
33 value of the electric power company's property.

34           (3) Property owned by an electric power company is valued at its original cost.

35           (4) Property rented by an electric power company is valued at eight times the net  
36 annual rental rate.

37           (5) Net annual rental rate is the annual rental rate paid by an electric power  
38 company less any annual rental rate received by the electric power company  
39 from sub-rentals except that sub-rentals shall not be deducted when they  
40 constitute apportionable income.

41           (6) Any property under construction and any property the income from which  
42 constitutes nonapportionable income shall be excluded from the computation  
43 of the average value of an electric power company's real and tangible personal  
44 property.

45       ...."

46       **SECTION 3.2.** Part 1 of Article 4 of Chapter 105 of the General Statutes is amended  
47 by adding a new section to read:

48 **"§ 105-130.4A. Market-based sourcing for broadcasters.**

49       (a) Definitions. – The definitions in G.S. 105-130.4 and the following definitions apply  
50 to this section:

- 1           (1) Audience factor. – The factor determined by the ratio provided in this  
2 subdivision. The ratio is as follows:  
3           a. Television station. – The ratio that the viewing audience located in this  
4 State for a television station bears to the total viewing audience for a  
5 television station.  
6           b. Radio station. – The ratio that the listening audience in this State for a  
7 radio station bears to the total listening audience for a radio station.  
8           c. Cable or satellite program and channel broadcasts. – The ratio that the  
9 subscribers for a cable or satellite system located in this State bears to  
10 the total subscribers of a cable or satellite system. If the number of  
11 subscribers cannot be accurately determined from the books and  
12 records maintained by the taxpayer, the ratio shall be determined on  
13 the basis of the applicable year's subscription statistics located in  
14 published surveys, provided the source selected is consistently used  
15 from year to year for this purpose.  
16           (2) Broadcast. – The transmission of audio or video programming, directly or  
17 indirectly, to viewers and listeners by any other method of communication or  
18 combination of methods.  
19           (3) Broadcaster. – A person that provides audio or video programming to  
20 customers in this State by digital or analog means in exchange for one or more  
21 of the following: advertising receipts, subscriber fees, license, rent, or similar  
22 fees. The term includes a television or radio station licensed by the Federal  
23 Communications Commission, including network-owned or affiliated  
24 stations, a television or radio broadcast network, a cable program network, a  
25 distributor of audio or video programming, a cable system operator, and  
26 satellite system operator.  
27           (4) Gross receipts. – The same meaning as the term "sales" in G.S. 105-130.4.  
28           (5) Release or in release. – The placing of film or radio programming into service.  
29 A film or radio program is placed into service when it is first broadcast to the  
30 primary audience for entertainment, educational, commercial, artistic, or other  
31 purposes. Each episode of a television or radio series is placed in service when  
32 it is first broadcast. A program is not placed in service merely because it is  
33 completed and therefore in a condition or state of readiness and availability  
34 for broadcast or merely because it is previewed to prospective sponsors or  
35 purchasers.  
36           (6) Rent. – License fees or other payments or consideration provided in exchange  
37 for the broadcast or other use of television or radio programming.  
38           (7) Subscriber. – The individual residence or other outlet that is the ultimate  
39 recipient of the transmission of the audio or video programming.  
40           (b) Reasonable Approximation. – If the audience factor for a receipt cannot be  
41 determined, the state or states of assignment shall be reasonably approximated. If a taxpayer is  
42 delivering advertising or licensed content directly or indirectly to a known list of subscribers, the  
43 taxpayer shall reasonably approximate the receipts attributable to this State's market using a  
44 percentage that reflects the ratio of North Carolina subscribers to the total number of subscribers.  
45 If the taxpayer is delivering advertising or licensed content through an intermediary and does not  
46 have access to the list of subscribers, the taxpayer shall reasonably approximate the receipts  
47 attributable to this State's market using a percentage that reflects the ratio of the North Carolina  
48 population to the total population in the specific geographic area where the advertisement or  
49 licensed content is materially used. Unless the taxpayer provides substantial evidence to the  
50 contrary, the area where the advertisement or licensed content is materially used does not include  
51 areas outside the United States. If the taxpayer is able to show with substantial evidence that the

1 advertisement or licensed content is materially used in a city within a foreign country, then the  
2 population of that city may be included in the population ratio calculation. If the taxpayer is able  
3 to show with substantial evidence that the advertisement or license content is materially used  
4 throughout a foreign county, then the population of that foreign country may be included in the  
5 population ratio calculation. In a case where the specified rules of reasonable approximation fail  
6 to reasonably approximate the percentage of receipts attributable to this State's market, the  
7 Department may authorize an alternate approach that reflects an attempt to obtain the most  
8 accurate assignment of receipts.

9 (c) Market for Receipts. – The receipts factor of a broadcaster is a fraction, the numerator  
10 of which is the sum of the broadcaster's gross receipts from sources within the State and the  
11 denominator of which is the sum of the broadcaster's gross receipts from transactions and activity  
12 in the regular course of its trade or business everywhere. Advertising gross receipts and license  
13 fees for audio or video programming in release are attributable to this State in accordance with  
14 the audience factor in this State. Gross receipts from subscriber fees, rents, sales, or similar  
15 charges from audio or video programming in release are attributable to this State based on the  
16 amount of subscriber or other fees paid by customers in this State. A sale of audio or video  
17 programming on tangible media is sourced to this State as sales of tangible personal property."

18 **SECTION 3.3.** Part 1 of Article 4 of Chapter 105 of the General Statutes is amended  
19 by adding a new section to read:

20 "**§ 105-130.4B. Market-based sourcing for banks.**

21 (a) Definitions. – The definitions in G.S. 105-130.4 apply to this section and the  
22 following definitions apply to this section:

- 23 (1) Bank. – Defined in G.S. 105-130.7B.
- 24 (2) Billing address. – The location indicated in the books and records of the  
25 taxpayer on the first day of the taxable year, or on the date in the taxable year  
26 when the customer relationship began, as the address where any notice,  
27 statement, or billing relating to the customer's account is mailed.
- 28 (3) Borrower, cardholder, or payor located in this State. – A borrower, credit  
29 cardholder, or payor whose billing address is in this State.
- 30 (4) Card issuer's reimbursement fee. – The fee a taxpayer receives from a  
31 merchant's bank because one of the persons to whom the taxpayer has issued  
32 a credit, debit, or similar type of card has charged merchandise or services to  
33 the card.
- 34 (5) Credit card. – A card, or other means of providing information, that entitles  
35 the holder to charge the cost of purchases, or a cash advance against a line of  
36 credit.
- 37 (6) Debit card. – A card, or other means of providing information, that enables  
38 the holder to charge the cost of purchases, or a cash withdrawal, against the  
39 holder's bank account or a remaining balance on the card.
- 40 (7) Loan. – Any extension of credit resulting from direct negotiations between the  
41 taxpayer and its customer, and/or the purchase, in whole or in part, of such an  
42 extension of credit from another. The term includes participations,  
43 syndications, and leases treated as loans for federal income tax purposes.
- 44 (8) Loan secured by real property. – A loan or other obligation of which fifty  
45 percent (50%) or more of the aggregate value of the collateral used to secure  
46 the loan or other obligation, when valued at fair market value as of the time  
47 the original loan or obligation was incurred, was real property.
- 48 (9) Merchant discount. – The fee, or negotiated discount, charged to a merchant  
49 by the taxpayer for the privilege of participating in a program whereby a  
50 credit, debit, or similar type of card is accepted in payment for merchandise  
51 or services sold to the cardholder, net of any cardholder chargeback and

1                    unreduced by any interchange transaction or issuer reimbursement fee paid to  
2                    another for charges or purchased made by its cardholder.

3                    (10) Participation. – An extension of credit in which an undivided ownership  
4                    interest is held on a prorate basis in a single loan or pool of loans and related  
5                    collateral. In a loan participation, the credit originator initially makes the loan  
6                    and then subsequently resells all or a portion of it to other lenders. The  
7                    participation may or may not be known to the borrower.

8                    (11) Payor. – The person who is legally responsible for making payment to the  
9                    taxpayer.

10                    (12) Real property owned. – Real property (i) on which the taxpayer may claim  
11                    depreciation for federal income tax purposes, or (ii) to which the taxpayer  
12                    holds legal title and on which no other person may claim depreciation for  
13                    federal income tax purposes or could claim depreciation if subject to federal  
14                    income tax. Real property does not include coin, currency, or property  
15                    acquired in lieu of or pursuant to a foreclosure.

16                    (13) Syndication. – An extension of credit in which two or more persons fund and  
17                    each person is at risk only up to a specified percentage of the total extension  
18                    of credit or up to a specified dollar amount.

19                    (14) Tangible personal property owned. – Tangible personal property (i) on which  
20                    the taxpayer may claim depreciation for federal income tax purposes or (ii) to  
21                    which the taxpayer holds legal title and on which no other person may claim  
22                    depreciation for federal income tax purposes could claim depreciation if  
23                    subject to federal income tax. Tangible personal property does not include  
24                    coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

25                    (15) Transportation property. – Vehicles and vessels capable of moving under their  
26                    own power as well as any equipment or containers attached to such property.  
27                    Examples of transportation property include aircraft, trains, water vessels,  
28                    motor vehicles, rolling stock, barges, and trailers.

29                    (b) General Rule. – The receipts factor of a bank is a fraction, the numerator of which is  
30 the total receipts of the taxpayer in this State during the income year, and the denominator of  
31 which is the total receipts of the taxpayer everywhere during the income year. The method of  
32 calculating receipts for purposes of the denominator is the same as the method used in  
33 determining receipts for purposes of the numerator. The receipts factor includes only those  
34 receipts described herein that are apportionable income for the taxable year. Notwithstanding any  
35 other provision under this Part, the receipts from the following are excluded from both the  
36 numerator and the denominator of the receipts factor:

37                    (1) Receipts from a casual sale of property.

38                    (2) Receipts exempt from taxation.

39                    (3) The portion of receipts realized from the sale or maturity of securities or other  
40                    obligations that represents a return of principal.

41                    (4) Receipts in the nature of dividends subtracted under G.S. 105-130.5(b)(3a)  
42                    and (3b) and dividends excluded for federal tax purposes.

43                    (5) The portion of receipts from financial swaps and other similar financial  
44                    derivatives that represent the notional principal amount that generates the cash  
45                    flow traded in the swap agreement.

46                    (c) Receipts from the Sale, Lease, or Rental of Real Property. – The numerator of the  
47 receipts factor includes receipts from the sale, lease, or rental of real property owned by the  
48 taxpayer if the property is located within this State or receipts from the sublease of real property  
49 if the property is located within this State.

50                    (d) Receipts from the Sale, Lease, or Rental of Tangible Personal Property. – The method  
51 for calculating receipts from the sale, lease, or rental of tangible personal property is as follows:



1           (1) Tangible personal property. – Except as provided in subdivision (2) of this  
2 subsection, the numerator of the receipts factor includes receipts from the sale,  
3 lease, or rental of tangible personal property owned by the taxpayer if the  
4 property is located within this State when it is first placed in service by the  
5 lessee.

6           (2) Transportation property. – Receipts from the lease or rental of transportation  
7 property owned by the taxpayer are included in the numerator of the receipts  
8 factor to the extent that the property is used in this State. The extent an aircraft  
9 will be deemed to be used in this State and the amount of receipts that is to be  
10 included in the numerator of this State's receipts factor is determined by  
11 multiplying all the receipts from the lease or rental of the aircraft by a fraction,  
12 the numerator of which is the number of landings of the aircraft in this State  
13 and the denominator of which is the total number of landings of the aircraft.  
14 If the extent of the use of any transportation property within this State cannot  
15 be determined, then the property will be deemed to be used wholly in the state  
16 in which the property has its principal base of operations. A motor vehicle will  
17 be deemed to be used wholly in the state in which it is registered.

18           (e) Interest, Fees, and Penalties from Loans Secured by Real Property. – The numerator  
19 of the receipts factor includes interest, fees, and penalties from loans secured by real property if  
20 the property is located within this State. If the property is located both within this State and one  
21 or more other states, the receipts described in this subsection are included in the numerator of the  
22 receipts factor if more than fifty percent (50%) of the fair market value of the real property is  
23 located within this State. If more than fifty percent (50%) of the fair market value of the real  
24 property is not located within any one state, then the receipts described in this subsection are  
25 included in the numerator of the receipts factor if the borrower is located in this State. The  
26 determination of whether the real property securing a loan is located within this State is made as  
27 of the time the original agreement was made and any and all subsequent substitutions of collateral  
28 are disregarded.

29           (f) Interest, Fees, and Penalties from Loans Not Secured by Real Property. – The  
30 numerator of the receipts factor includes interest, fees, and penalties from loans not secured by  
31 real property if the borrower is located in this State.

32           (g) Net Gains from the Sale of Loans. – The numerator of the receipts factor includes net  
33 gains from the sale of loans. Net gains from the sale of loans include income recorded under the  
34 coupon stripping rules of section 1286 of the Code. The amount of net gains from the sale of  
35 loans that is included in the numerator is determined as follows:

36           (1) Secured by real property. – The amount of net gains, but not less than zero,  
37 from the sale of loans secured by real property is determined by multiplying  
38 the net gains by a fraction, the numerator of which is the amount included in  
39 the numerator of the receipts factor pursuant to subsection (e) of this section,  
40 and the denominator of which is the total amount of interest, fees, and  
41 penalties from loans secured by real property.

42           (2) Not secured by real property. – The amount of net gains, but not less than zero,  
43 from the sale of loans not secured by real property is determined by  
44 multiplying the net gains by a fraction, the numerator of which is the amount  
45 included in the numerator of the receipts factor pursuant to subsection (f) of  
46 this section, and the denominator of which is the total amount of interest, fees,  
47 and penalties from loans not secured by real property.

48           (h) Receipts from Interest, Fees, and Penalties from Cardholders. – The numerator of the  
49 receipts factor includes interest, fees, and penalties charged to credit, debit, or similar  
50 cardholders, including annual fees and overdraft fees, if the cardholder is located in this State.

1        (i) Receipts from ATM Fees. – The numerator of the receipts factor includes receipts  
2 from fees from the use of an ATM owned or rented by the taxpayer, if the ATM is located in this  
3 State. The receipts factor includes all ATM fees that are not forwarded directly to another bank.  
4 Receipts from ATM fees that are not sourced under this subsection are sourced pursuant to  
5 subsection (l) of this section.

6        (j) Net Gains from the Sale of Credit Card Receivables. – The numerator of the receipts  
7 factor includes net gains, but not less than zero, from the sale of credit card receivables multiplied  
8 by a fraction, the numerator of which is the amount included in the numerator of the receipts  
9 factor pursuant to subsection (h) of this section, and the denominator of which is the taxpayer's  
10 total amount of interest, fees, and penalties charged to cardholders.

11        (k) Miscellaneous Receipts. – The numerator of the receipts factor includes all of the  
12 following:

13            (1) Card issuer's reimbursement fees. – Receipts from card issuer's reimbursement  
14 fees if the payor is located in this State.

15            (2) Receipts from merchant's discount. – Receipts from a merchant discount if the  
16 payor is located in this State.

17            (3) Loan servicing fees. – Receipts from loan servicing fees if the payor is located  
18 in this State.

19            (4) Receipts from services. – Receipts from services not otherwise apportioned  
20 under this section if the payor is located in this State.

21            (5) Receipts from investment assets and activity and trading assets and activity. –  
22 Receipts from one or more of the following:

23            a. Interest and dividends from investment assets and activities and  
24 trading assets and activities if the payor is located in this State.

25            b. Net gains and other income, but not less than zero, from investment  
26 assets and activities and trading assets and activities multiplied by a  
27 fraction, the numerator of which is the amount included in the  
28 numerator of the receipts factor pursuant to sub-subdivision a. of this  
29 subdivision, and the denominator of which is the taxpayer's total  
30 amount of interest and dividends from investment assets and activities  
31 and trading assets and activities.

32        (l) All Other Receipts. – All other receipts not specifically enumerated in this section are  
33 included in the numerator of the receipts factor if the payor is located in this State."

34        **SECTION 3.4.** The Utilities Commission shall adjust the rates for public utilities,  
35 excluding water public utilities with less than two hundred thousand dollars (\$200,000) in annual  
36 operating revenues, for the tax changes in Section 3.1 of this Part. Each utility shall calculate the  
37 cumulative net effect of the tax changes and file the calculations with proposed rate changes to  
38 reflect the net prospective tax changes in utility customer rates within 60 days of the enactment  
39 of this act. Any adjustments required to existing tax assets or liabilities reflected in the utility's  
40 books and records required by the tax changes shall be deferred and reflected in customer rates  
41 in either the utility's next rate case or earlier if deemed appropriate by the Commission.

42        **SECTION 3.5.** Under Section 38.4 of S.L. 2016-94, the Department of Revenue  
43 adopted and submitted to the Rules Review Commission rules regarding the implementation and  
44 administration of market-based sourcing principles based on legislation proposed in that section.  
45 The Department adopted the rules on January 4, 2017, and submitted the rules to the Rules  
46 Review Commission on January 18, 2017. The Rules Review Commission approved the rules  
47 and delivered to the Codifier of Rules on February 16, 2017. Pursuant to Section 38.4(b) of S.L.  
48 2016-94, the Codifier of Rules did not enter the rules into the Administrative Code. The Codifier  
49 of Rules is hereby directed by the General Assembly to enter the rules into the Administrative  
50 Code on the effective date of this act, and the rules apply to taxable years beginning on or after  
51 January 1, 2020.

1           **SECTION 3.6.** Sections 3.1 through 3.3 of this Part are effective for taxable years  
2 beginning on or after January 1, 2020. The remainder of this Part is effective when it becomes  
3 law.

4  
5 **PART IV. MARKETPLACE FACILITATORS TO COLLECT SALES TAX**

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

7 **"§ 105-164.3. Definitions.**

8           The following definitions apply in this Article:

9           ...

10           (20a) Marketplace. – A physical or electronic place, forum, platform, application,  
11           or other method by which a marketplace seller sells or offers to sell items, the  
12           delivery of or first use of which is sourced to this State.

13           (20b) Marketplace facilitated sale. – The sale of an item by a marketplace facilitator  
14           on behalf of a marketplace seller that occurs through a marketplace.

15           (20c) Marketplace facilitator. – A person that, directly or indirectly and whether  
16           through one or more affiliates, does both of the following:

17           a.       Lists or otherwise makes available for sale a marketplace seller's items  
18           through a marketplace owned or operated by the marketplace  
19           facilitator.

20           b.       Does one or more of the following:

21               1.       Collects the sales price or purchase price of a marketplace  
22               seller's items or otherwise processes payment.

23               2.       Makes payment processing services available to purchasers for  
24               the sale of a marketplace seller's items.

25               3.       Transmits the offer or acceptance for the sale of the items.

26           (20d) Marketplace seller. – A person that sells or offers to sell items through a  
27           marketplace regardless of any of the following:

28           a.       Whether the person has a physical presence in this State.

29           b.       Whether the person is registered as a retailer in this State.

30           c.       Whether the person would have been required to collect and remit  
31           sales and use tax had the sales not been made through a marketplace.

32           d.       Whether the person would not have been required to collect and remit  
33           sales and use tax had the sales not been made through a marketplace.

34           ...."

35           **SECTION 4.1.(b)** G.S. 105-164.8(b) reads as rewritten:

36           "(b) **Remote Sales.** – A retailer who makes a remote sale is engaged in business in this  
37 State and is subject to the tax levied under this Article if at least one of the following conditions  
38 is met:

39           ...

40           (3) The retailer solicits or transacts business in this State by employees,  
41 independent contractors, agents, or other representatives, whether the remote  
42 sales ~~thus~~ subject to taxation by this State result from or are related in any  
43 other way to the solicitation or transaction of business. A retailer is presumed  
44 to be soliciting or transacting business by an independent contractor, agent, or  
45 other representative if the retailer enters into an agreement with a resident of  
46 this State under which the ~~resident,~~ person, for a commission or other  
47 consideration, directly or indirectly refers potential customers, whether by a  
48 link on an Internet Web site or otherwise, to the retailer. This presumption  
49 applies only if the cumulative gross receipts from sales by the retailer to  
50 purchasers in this State who are referred to the retailer by all ~~residents~~ persons  
51 with this type of agreement with the retailer is in excess of ten thousand dollars

1 (\$10,000) during the preceding four quarterly periods. This presumption may  
 2 be rebutted by proof that the ~~resident person~~ with whom the retailer has an  
 3 agreement did not engage in any solicitation in the State on behalf of the seller  
 4 that would satisfy the nexus requirement of the United States Constitution  
 5 during the four quarterly periods in question.

6 ...

7 (9) ~~The retailer, with respect to retailer makes remote sales into North Carolina~~  
 8 ~~sourced to this State, including sales as a marketplace seller, for the previous~~  
 9 ~~or the current calendar year, had one or more year that meet either of the~~  
 10 following:

- 11 a. Gross sales in excess of one hundred thousand dollars (\$100,000).  
 12 b. Two hundred or more separate transactions.

13 (10) The retailer is a marketplace facilitator that makes sales, including all  
 14 marketplace facilitated sales for all marketplace sellers, sourced to this State  
 15 for the previous or the current calendar year that meet either of the following:

- 16 a. Gross sales in excess of one hundred thousand dollars (\$100,000).  
 17 b. Two hundred or more separate transactions."

18 **SECTION 4.1.(c)** Part 2 of Article 5 of Chapter 105 of the General Statutes is  
 19 amended by adding a new section to read:

20 **"§ 105-164.4J. Marketplace facilitated sales.**

21 (a) Scope. – This section applies to a marketplace facilitator that makes sales, including  
 22 all marketplace facilitated sales for all marketplace sellers, sourced to this State for the previous  
 23 or the current calendar year that meet either of the following:

- 24 (1) Gross sales in excess of one hundred thousand dollars (\$100,000).  
 25 (2) Two hundred or more separate transactions.

26 (b) Payment of Tax. – A marketplace facilitator that meets the threshold in subsection (a)  
 27 of this section is considered the retailer of each marketplace facilitated sale it makes and is liable  
 28 for collecting and remitting the sales and use tax on all such sales. A marketplace facilitator is  
 29 required to comply with the same requirements and procedures as all other retailers registered or  
 30 who are required to be registered to collect and remit sales and use tax in this State. A marketplace  
 31 seller shall treat a sale made through a marketplace facilitator that is subject to the provisions of  
 32 this section as a wholesale sale. A marketplace facilitator is required to collect and remit sales  
 33 tax as required by this section regardless of whether a marketplace seller for whom it makes a  
 34 marketplace facilitated sale meets any of the following conditions:

- 35 (1) Has a physical presence in this State.  
 36 (2) Is required to be registered to collect and remit sales and use tax in this State.  
 37 (3) Would have been required to collect and remit sales and use tax in this State  
 38 had the sale not been made through a marketplace.  
 39 (4) Would not have been required to collect and remit sales and use tax in this  
 40 State had the sale not been made through a marketplace.

41 (c) Report. – A marketplace facilitator must report to each marketplace seller for whom  
 42 it makes marketplace facilitated sales, the gross sales sourced to this State and the number of  
 43 separate transactions sourced to this State made on behalf of the marketplace seller. The report  
 44 shall be made no later than 10 days after the end of each calendar month.

45 (d) Refund of Tax. – If a purchaser receives a refund on any portion of the sales price  
 46 from a marketplace facilitator who collected and remitted the tax on the retail sale, the provisions  
 47 of G.S. 105-164.11A(a) apply.

48 (e) Class Actions. – No class action may be brought against a marketplace facilitator in  
 49 any court of this State on behalf of customers arising from or in any way related to an  
 50 overpayment of sales or use tax collected on facilitated sales by a marketplace facilitator.

1 regardless of whether that claim is characterized as a tax refund claim. Nothing in this subsection  
2 affects a customer's right to seek a refund as provided under G.S. 105-164.11.

3 (f) Agreements. – Nothing in this section shall be construed to interfere with the ability  
4 of a marketplace facilitator and a marketplace seller to enter into an agreement with each other  
5 regarding the fulfillment of the requirements of this Article, except that an agreement may not  
6 require a marketplace seller to collect and remit sales and use tax on marketplace facilitated sales.

7 (g) Use Tax Obligation. – Nothing in this section affects the obligation of any purchaser  
8 to remit use tax for any taxable transaction for which a marketplace facilitator does not collect  
9 and remit sales or use tax.

10 (h) Limitation. – This section does not apply to an accommodation facilitator, an  
11 admission facilitator, or a service contract facilitator whose collection and remittance  
12 requirements are set out in G.S. 105-164.4F, 105-164.4G, and 105-164.4I, respectively."

13 **SECTION 4.1.(d)** G.S. 105-237.1(a) reads as rewritten:

14 "(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is  
15 collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the  
16 best interest of the State and makes one or more of the following findings:

17 ...

18 (8) A marketplace facilitator can show to the satisfaction of the Secretary that the  
19 failure to collect the correct amount of tax was due to incorrect information  
20 given to the marketplace facilitator by a marketplace seller."

21 **SECTION 4.2.(a)** G.S. 105-164.3 reads as rewritten:

22 "**§ 105-164.3. Definitions.**

23 The following definitions apply in this Article:

24 (1) Accommodation. – A hotel room, a motel room, a residence, a cottage, or a  
25 similar lodging facility for occupancy by an individual.

26 (1a) Accommodation facilitator. – A person that contracts, either directly or  
27 indirectly, with a provider of an accommodation to do, either directly or  
28 indirectly, one or more of the activities listed in this subdivision. The term  
29 includes a real estate broker as defined in G.S. 93A-2. The activities are:

30 a. Market the accommodation and accept payment or collect credit card  
31 or other payment information for the rental of the accommodation.

32 b. List the accommodation for rental on a forum, platform, or other  
33 application for a fee or other consideration.

34 ...."

35 **SECTION 4.2.(b)** G.S. 105-164.4F reads as rewritten:

36 "**§ 105-164.4F. Accommodation rentals.**

37 (a) ~~Definition.~~—The following definitions apply in this section:

38 (1) ~~Accommodation.~~—A hotel room, a motel room, a residence, a cottage, or a  
39 similar lodging facility for occupaney by an individual.

40 (2) ~~Facilitator.~~—A person who is not a rental agent and who contracts with a  
41 provider of an accommodation to market the accommodation and to accept  
42 payment from the consumer for the accommodation.

43 (3) ~~Rental agent.~~—The term includes a real estate broker, as defined in G.S.  
44 93A-2.

45 (b) Tax. – The gross receipts derived from the rental of an accommodation are taxed at  
46 the general rate set in G.S. 105-164.4. Gross receipts derived from the rental of an  
47 accommodation include the sales price of the rental of the accommodation. The sales price of the  
48 rental of an accommodation is determined as if the rental were a rental of tangible personal  
49 property. The sales price of the rental of an accommodation ~~marketed~~ made by a ~~an~~  
50 accommodation facilitator includes charges designated as facilitation ~~fees~~ fees, service fees,  
51 listing fees, and any other charges necessary to complete the rental.

1        (b1) Retailer. – For purposes of the tax imposed by this section, the retailer is the  
2 applicable person listed below. The liability of an accommodation facilitator for the tax imposed  
3 by this section relieves the provider of the accommodation from liability. The retailer is:

4            (1) The provider of the accommodation if the provider of the accommodation  
5 does any of the following with respect to the rental of the accommodation:

6            a. Collects payment for the accommodation at the time of the reservation.

7            b. Collects payment for the accommodation at the time the consumer  
8 occupies or has the right to occupy the accommodation.

9            c. Contracts with an accommodation facilitator that makes the  
10 reservation and collects credit card or other payment information at  
11 the time of the reservation but does not collect payment for the  
12 accommodation at the time of the reservation.

13            (2) The accommodation facilitator if the accommodation facilitator collects  
14 payment or a deposit for the accommodation at the time of the reservation.

15        (c) Accommodation Facilitator Transactions. – For a transaction in which the rental of  
16 an accommodation is made by an accommodation facilitator but the provider of the  
17 accommodation is considered the retailer, the following provisions apply:

18            (1) ~~A~~The accommodation facilitator must report to the retailer ~~with whom it has~~  
19 ~~a contract~~ the sales price a consumer pays to the facilitator for an ~~the~~  
20 accommodation rental ~~marketed~~ made by the accommodation facilitator.

21            (2) A retailer must notify a ~~an~~ accommodation facilitator when an  
22 accommodation rental ~~marketed~~ made by the accommodation facilitator is  
23 completed, and the accommodation facilitator must send the retailer the  
24 portion of the sales price the accommodation facilitator owes the retailer and  
25 the tax due on the sales price no later than 10 days after the end of each  
26 calendar month.

27            (3) An accommodation facilitator that does not send the retailer the tax due on the  
28 sales price is liable for the amount of tax the accommodation facilitator fails  
29 to send. ~~A~~An accommodation facilitator is not liable for tax sent to a retailer  
30 but not remitted by the retailer to the Secretary. Tax payments received by a  
31 retailer from a ~~an~~ accommodation facilitator are held in trust by the retailer  
32 for remittance to the Secretary.

33            (4) A retailer that receives a tax payment from a ~~an~~ accommodation facilitator  
34 must remit the amount received to the Secretary. A retailer is not liable for tax  
35 due but not received from a ~~an~~ accommodation facilitator.

36            (5) The requirements imposed by this section on a retailer and a ~~an~~  
37 accommodation facilitator are considered terms of the contract between the  
38 retailer and the accommodation facilitator.

39        (c1) Accommodation Facilitator Report. – An accommodation facilitator must file with  
40 the Secretary an annual report by March 31 of each year for the prior calendar year for  
41 accommodation rentals for which it is not considered the retailer under subsection (b1) of this  
42 section. The annual report must be provided in electronic format and include the property owner's  
43 name, property owner's mailing address, physical location of the accommodation, rental activity  
44 detail, available gross receipts information for rentals, and any other information deemed  
45 necessary by the Secretary.

46        (d) Rental Agent. – A person who, by written contract, agrees to be the rental agent for  
47 the provider of an accommodation is considered a retailer under this Article and is liable for the  
48 tax imposed by this section. The liability of a rental agent for the tax imposed by this section  
49 relieves the provider of the accommodation from liability.

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

- 1 (1) A private residence, cottage, or similar accommodation that is rented for fewer  
2 than 15 days in a calendar year ~~other than a private residence, cottage, or~~  
3 ~~similar accommodation listed with a real estate broker or agent unless the~~  
4 accommodation is rented by an accommodation facilitator that is considered  
5 the retailer under subsection (b1) of this section.
- 6 (2) An accommodation supplied to the same person for a period of 90 or more  
7 continuous days.
- 8 (3) An accommodation arranged or provided to a person by a school, camp, or  
9 similar entity where a tuition or fee is charged to the person for enrollment in  
10 the school, camp, or similar entity."

11 **SECTION 4.3.(a)** G.S. 105-164.3 reads as rewritten:

12 **"§ 105-164.3. Definitions.**

13 The following definitions apply in this Article:

- 14 ...
- 15 (1b) Admission charge. – Gross receipts derived for the right to attend an  
16 entertainment activity. The term includes a charge for a single ticket, a  
17 multi-occasion ticket, a seasonal pass, and an annual pass; a membership fee  
18 that provides for admission; a cover charge; a surcharge; a convenience fee, a  
19 processing fee, a facility charge, a facilitation fee, or similar charge; or any  
20 other charges included in gross receipts derived from admission.
- 21 (1c) Admission facilitator. – A person who accepts payment of an admission  
22 charge to an entertainment activity and who is not the operator of the venue  
23 where the entertainment activity occurs.
- 24 ...
- 25 (1f) Amenity. – A feature that increases the value or attractiveness of an  
26 entertainment activity that allows a person access to items that are not subject  
27 to tax under this Article and that are not available with the purchase of  
28 admission to the same event without the feature. The term includes parking  
29 privileges, special entrances, access to areas other than general admission,  
30 mascot visits, and merchandise discounts. The term does not include any  
31 charge for food, prepared food, and alcoholic beverages subject to tax under  
32 this Article.
- 33 ...
- 34 (9a) Entertainment activity. – An activity listed in this subdivision:
  - 35 a. A live performance or other live event of any kind, the purpose of  
36 which is for entertainment.
  - 37 b. A movie, motion picture, or film.
  - 38 c. A museum, a cultural site, a garden, an exhibit, a show, or a similar  
39 attraction.
  - 40 d. A guided tour at any of the activities listed in sub-subdivision c. of this  
41 subdivision.

42 ...."

43 **SECTION 4.3.(b)** G.S. 105-164.4G reads as rewritten:

44 **"§ 105-164.4G. Entertainment activity.**

45 (a) ~~Definition.~~ The following definitions apply in this section:

- 46 (1) ~~Admission charge. – Gross receipts derived for the right to attend an~~  
47 ~~entertainment activity. The term includes a charge for a single ticket, a~~  
48 ~~multi-occasion ticket, a seasonal pass, and an annual pass; a membership fee~~  
49 ~~that provides for admission; a cover charge; a surcharge; a convenience fee, a~~  
50 ~~processing fee, a facility charge, a facilitation fee, or similar charge; or any~~  
51 ~~other charges included in gross receipts derived from admission.~~

1           (2) ~~Amenity.—A feature that increases the value or attractiveness of an~~  
2           ~~entertainment activity that allows a person access to items that are not subject~~  
3           ~~to tax under this Article and that are not available with the purchase of~~  
4           ~~admission to the same event without the feature. The term includes parking~~  
5           ~~privileges, special entrances, access to areas other than general admission,~~  
6           ~~mascot visits, and merchandise discounts. The term does not include any~~  
7           ~~charge for food, prepared food, and alcoholic beverages subject to tax under~~  
8           ~~this Article.~~

9           (3) ~~Entertainment activity.—An activity listed in this subdivision:~~

10           ~~a. A live performance or other live event of any kind, the purpose of~~  
11           ~~which is for entertainment.~~

12           ~~b. A movie, motion picture, or film.~~

13           ~~c. A museum, a cultural site, a garden, an exhibit, a show, or a similar~~  
14           ~~attraction.~~

15           ~~d. A guided tour at any of the activities listed in sub-subdivision c. of this~~  
16           ~~subdivision.~~

17           (4) ~~Facilitator.—A person who accepts payment of an admission charge to an~~  
18           ~~entertainment activity and who is not the operator of the venue where the~~  
19           ~~entertainment activity occurs.~~

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

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

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

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

31           (c) Admission Facilitator. – ~~A~~ An admission facilitator must report to the retailer with  
32           whom it has a contract the admission charge a consumer pays to the admission facilitator for an  
33           entertainment activity. The admission facilitator must send the retailer the portion of the gross  
34           receipts the admission facilitator owes the retailer and the tax due on the gross receipts derived  
35           from an admission charge no later than 10 days after the end of each calendar month. ~~A~~ An  
36           admission facilitator that does not send the retailer the tax due on the gross receipts derived from  
37           an admission charge is liable for the amount of tax the admission facilitator fails to send to the  
38           retailer. ~~A~~ An admission facilitator is not liable for tax sent to a retailer but not remitted by the  
39           retailer to the Secretary. Tax payments received by a retailer from a an admission facilitator are  
40           held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment  
41           from a an admission facilitator must remit the amount received to the Secretary. A retailer is not  
42           liable for tax due but not received from a an admission facilitator. The requirements imposed by  
43           this subsection on a retailer and a an admission facilitator are considered terms of the contract  
44           between the retailer and the admission facilitator.

45           (d) Dual Remittance. – The tax due on the gross receipts derived from an admission  
46           charge may be partially reported and remitted to the operator of the venue for remittance to the  
47           Department and partially reported and remitted by the admission facilitator directly to the  
48           Department. The portion of the tax not reported and remitted to the operator of the venue must  
49           be reported and remitted directly by the admission facilitator to the Department. ~~A~~ An admission  
50           facilitator that elects to remit tax under the dual remittance option is required to obtain a



1 certificate of registration in accordance with G.S. 105-164.29. ~~A~~ An admission facilitator is  
2 subject to the provisions of Article 9 of this Chapter.

3 ...."

4 **SECTION 4.4.(a)** G.S. 105-164.3 reads as rewritten:

5 **"§ 105-164.3. Definitions.**

6 The following definitions apply in this Article:

7 ...

8 (38c) Service contract facilitator. – A person who contracts with the obligor of a  
9 service contract to market the service contract and accepts payment from the  
10 purchaser for the service contract.

11 ...."

12 **SECTION 4.4.(b)** G.S. 105-164.4I reads as rewritten:

13 **"§ 105-164.4I. Service contracts.**

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

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

- 20 (1) When a service contract is sold at retail to a purchaser by the obligor under  
21 the contract, the obligor is the retailer.
- 22 (2) When a service contract is sold at retail to a purchaser by a service contract  
23 facilitator on behalf of the obligor under the contract, the service contract  
24 facilitator is the retailer unless the provisions of subdivision (3) of this  
25 subsection apply.
- 26 (3) When a service contract is sold at retail to a purchaser by a service contract  
27 facilitator on behalf of the obligor under the contract and there is an agreement  
28 between the service contract facilitator and the obligor that states the obligor  
29 will be liable for the payment of the tax, the obligor is the retailer. The service  
30 contract facilitator must send the retailer the tax due on the sales price of or  
31 gross receipts derived from the service contract no later than 10 days after the  
32 end of each calendar month. A service contract facilitator that does not send  
33 the retailer the tax due on the sales price or gross receipts is liable for the  
34 amount of tax the service contract facilitator fails to send. A service contract  
35 facilitator is not liable for tax sent to a retailer but not remitted by the retailer  
36 to the Secretary. Tax payments received by a retailer from a service contract  
37 facilitator are held in trust by the retailer for remittance to the Secretary. A  
38 retailer that receives a tax payment from a service contract facilitator must  
39 remit the amount received to the Secretary. A retailer is not liable for tax due  
40 but not received from a service contract facilitator. The requirements imposed  
41 by this subdivision on a retailer and a service contract facilitator are  
42 considered terms of the agreement between the retailer and the service  
43 contract facilitator.

44 ...

45 (e) ~~Definition.~~ For purposes of this section, the term "facilitator" means a person who  
46 ~~contracts with the obligor of the service contract to market the service contract and accepts~~  
47 ~~payment from the purchaser for the service contract."~~

48 **SECTION 4.5.(a)** G.S. 105-164.22 reads as rewritten:

49 **"§ 105-164.22. ~~Record-keeping~~ Recordkeeping requirements, inspection authority, and**  
50 **effect of failure to keep records.**

1       (a) Recordkeeping Generally. – Retailers, wholesale merchants, facilitators, real property  
 2 contractors, and consumers must keep records that establish their tax liability under this Article.  
 3 The Secretary or a person designated by the Secretary may inspect these records at any reasonable  
 4 time during the day.

5       (b) Retailers. – A retailer's records must include records of the retailer's gross income,  
 6 gross sales, net taxable sales, ~~and all items purchased for resale, resale, and any reports or records~~  
 7 related to transactions with a facilitator with whom it has a contract as provided in this Article.  
 8 Failure of a retailer to keep records that establish ~~that~~ a sale is exempt under this Article subjects  
 9 the retailer to liability for tax on the sale.

10       (c) Wholesale Merchants. – A wholesale merchant's records must include a bill of sale  
 11 for each customer that contains the name and address of the purchaser, the date of the purchase,  
 12 the item purchased, and the sales price at which the wholesale merchant sold of the item. A  
 13 wholesale merchant must also keep records that establish a sale is exempt from tax and any  
 14 reports or records related to transactions with a facilitator with whom it has a contract as provided  
 15 in this Article. Failure of a wholesale merchant to keep ~~these records for the sale of an item that~~  
 16 establish a sale is exempt from tax under this Article subjects the wholesale merchant to liability  
 17 for tax at the rate that applies to the retail sale of the item.

18       (d) Facilitators. – A facilitator's records must include records of the facilitator's gross  
 19 income, gross sales, net taxable sales, all items purchased for resale, any reports or records related  
 20 to transactions with a retailer with whom it has a contract as provided in this Article, and any  
 21 other records that establish its tax liability. Failure of a facilitator to keep records that establish a  
 22 sale is exempt from tax under this Article subjects the facilitator to liability for tax on the sale.

23       (e) Real Property Contractors. – A real property contractor's records must include  
 24 substantiation that a transaction is a real property contract or a mixed transaction contract  
 25 pursuant to G.S. 105-164.4H(a1). Failure of a real property contractor to keep records that  
 26 establish a real property contract under this Article subjects the real property contractor to  
 27 liability for tax on the sale.

28       (f) Consumers. – A consumer's records must include an invoice or other statement of the  
 29 purchase price of an item the consumer purchased from inside or outside the ~~State.~~ State and any  
 30 sales and use tax paid thereon. Failure of the consumer to keep these records subjects the  
 31 consumer to liability for tax on the purchase price of the item, as determined by the Secretary."

32       **SECTION 4.5.(b)** G.S. 105-164.3, as amended by Section 1 of this Part, reads as  
 33 rewritten:

34 **"§ 105-164.3. Definitions.**

35       The following definitions apply in this Article:

36       ...

37       ~~(1)~~(1d) Advertising and promotional direct mail. – Printed material that meets the  
 38 definition of "direct mail" and the primary purpose of which is to attract public  
 39 attention to ~~a product, an item,~~ person, business, or organization, or to attempt  
 40 to sell, popularize, or secure financial support for ~~a product, an item,~~ person,  
 41 business, or organization. ~~As used in this subdivision, "product" means~~  
 42 tangible personal property, digital property, or a service.

43       (1e) Affiliate. – Defined in G.S. 105-130.2.

44       ...

45       ~~(1a)~~(1g) Analytical services. – Testing laboratories that are included in national  
 46 industry 541380 of NAICS or medical laboratories that are included in  
 47 national industry 621511 of NAICS.

48       ~~(1b)~~(1h) Ancillary service. – A service associated with or incidental to the  
 49 provision of a telecommunications service. The term includes detailed  
 50 communications billing, directory assistance, vertical service, and voice mail  
 51 service. A vertical service is a service, such as call forwarding, caller ID,

1 three-way calling, and conference bridging, that allows a customer to identify  
2 a caller or manage multiple calls and call connections.

3 ~~(1f)~~(1i) Audio work. – A series of musical, spoken, or other sounds, including a  
4 ringtone.

5 ~~(1g)~~(1j) Audiovisual work. – A series of related images and any sounds  
6 accompanying the images that impart an impression of motion when shown  
7 in succession.

8 ~~(1h)~~(1k) Aviation gasoline. – Defined in G.S. 105-449.60.

9 ~~(1i)~~(1l) Bundled transaction. – A retail sale of two or more distinct and identifiable  
10 ~~products, items,~~ at least one of which is taxable and one of which is ~~exempt,~~  
11 ~~nontaxable,~~ for one nonitemized price. The term does not apply to real  
12 property ~~and~~ or services to real property. ~~Products-Items~~ are not sold for one  
13 nonitemized price if an invoice or another sales document made available to  
14 the purchaser separately identifies the price of each ~~product, item.~~ A bundled  
15 transaction does not include the retail sale of any of the following:

16 a. ~~A product-An item~~ and any packaging ~~item~~ that accompanies the  
17 ~~product item~~ and is exempt under G.S. 105-164.13(23).

18 b. A sale of two or more ~~products-items~~ whose combined price varies, or  
19 is negotiable, depending on the ~~products-items~~ the purchaser selects.

20 c. A sale of a ~~product-an item~~ accompanied by a transfer of another  
21 ~~product item~~ with no additional consideration.

22 d. ~~A product-An item~~ and the delivery or installation of the ~~product item.~~

23 e. ~~A product-An item~~ and any service necessary to complete the sale.

24 ~~(1k)~~(1m) Business. – An activity a person engages in or causes another to engage in  
25 with the object of gain, profit, benefit, or advantage, either direct or indirect.  
26 The term does not include an occasional and isolated sale or transaction by a  
27 person who does not claim to be engaged in business.

28 ~~(1m)~~(1n) Cable service. – The one-way transmission to subscribers of video  
29 programming or other programming service and any subscriber interaction  
30 required to select or use the service.

31 ...

32 (2c) Capital improvement. – One or more of the following:

33 ...

34 k. An addition or alteration to real property that is permanently affixed  
35 or installed to real property and is not an activity listed in subdivision  
36 ~~(33f)~~(33m) of this section as repair, maintenance, and installation  
37 services.

38 ...

39 (9) Engaged in business. – Any of the following:

40 a. Maintaining, occupying, or using permanently or temporarily, directly  
41 or indirectly, or through a subsidiary or agent, by whatever name  
42 called, any office, place of distribution, sales or sample room,  
43 warehouse or storage place, or other place of business ~~for selling or~~  
44 ~~delivering tangible personal property, digital property, or a service for~~  
45 ~~storage, use, or consumption~~ in this State, or permanently or  
46 temporarily, directly or through a subsidiary, having any  
47 representative, agent, sales representative, marketplace facilitator  
48 subject to the requirements of G.S. 105-164.4J, or solicitor operating  
49 or transacting business by mobile phone application or other  
50 applications in this State in the selling or delivering. State. The fact  
51 that any corporate retailer, agent, or subsidiary engaged in business in

- 1 this State may not be legally domesticated or qualified to do business  
 2 in this State is immaterial.  
 3 ...  
 4 e. Making marketplace facilitated sales subject to the requirements of  
 5 G.S. 105-164.4J.  
 6 ...  
 7 (9e) Facilitator. – An accommodation facilitator, an admission facilitator, or a  
 8 service contract facilitator.  
 9 ...  
 10 (20b)(20e) Mixed transaction contract. – A contract that includes both a real property  
 11 contract for a capital improvement and repair, maintenance, and installation  
 12 services for real property that are not related to the capital improvement.  
 13 ...  
 14 (33j) Remote sale. – A sale of ~~tangible personal property or digital property~~ an item  
 15 ordered by mail, by telephone, via the Internet, mobile phone application, or  
 16 by another similar method, to a purchaser who is in this State at the time the  
 17 order is remitted, from method by a retailer who receives the order in another  
 18 state and delivers the property item or makes it accessible to a person in this  
 19 State or causes it the item to be delivered or made accessible to a person in  
 20 this State. State or performs a service sourced to this State. It is presumed that  
 21 a resident of this State who remits makes an order was in this State at the time  
 22 the order was remitted.made.  
 23 ...  
 24 (33d)(33m) Repair, maintenance, and installation services. – The term includes the  
 25 activities listed in this subdivision and applies to tangible personal property,  
 26 motor ~~vehicle, vehicles,~~ certain digital property, and real property. The term  
 27 does not include ~~services~~ a service used to fulfill a real property contract taxed  
 28 in accordance with ~~G.S. 105-164.4H;~~ G.S. 105-164.4H. The included  
 29 activities are:  
 30 ...  
 31 (35) Retailer. – Any of the following persons:  
 32 a. A person engaged in business of making sales at retail, offering to  
 33 make sales at retail, or soliciting sales at retail of ~~tangible personal~~  
 34 ~~property, digital property for storage, use, or consumption in this State,~~  
 35 ~~or services items~~ sourced to this State. When the Secretary finds it  
 36 necessary for the efficient administration of this Article to regard any  
 37 sales representatives, solicitors, representatives, consignees, peddlers,  
 38 or truckers as agents of the dealers, distributors, consignors,  
 39 supervisors, employers, or persons under whom they operate or from  
 40 whom they obtain the items sold by them regardless of whether they  
 41 are making sales on their own behalf or on behalf of these dealers,  
 42 distributors, consignors, supervisors, employers, or persons, the  
 43 Secretary may so regard them and may regard the dealers, distributors,  
 44 consignors, supervisors, employers, or persons as "retailers" for the  
 45 purpose of this Article.  
 46 b. A person, other than a real property contractor, engaged in business of  
 47 delivering, erecting, installing, or applying tangible personal property  
 48 or digital property for use in this State.  
 49 c. A person engaged in business of making a remote sale, if one of the  
 50 conditions listed in G.S. 105-164.8(b) is met.

- 1 d. A ~~person, other than a facilitator,~~ person required to collect the State  
2 tax levied under this Article or the local taxes levied under Subchapter  
3 VIII of this Chapter and under Chapter 1096 of the 1967 Session Laws.  
4 e. A marketplace facilitator that is subject to the requirements of  
5 G.S. 105-164.4J or a facilitator that is required to collect and remit the  
6 tax under this Article.

7 ...."

8 **SECTION 4.6.** There is no obligation to collect the sales and use tax required by this  
9 Part retroactively.

10 **SECTION 4.7.** If any provision of this Part, or the application of any provision to a  
11 person or circumstance, is held to be unconstitutional, then the remainder of this Part, and the  
12 application of the provisions to any person or circumstance, shall not be affected thereby.

13 **SECTION 4.8.** The Revisor of Statutes is authorized to renumber the subdivisions  
14 of G.S. 105-164.3 to ensure that the subdivisions are listed in alphabetical order and in a manner  
15 that reduces the current use of alphanumeric designations, to make conforming changes, and to  
16 reserve sufficient space to accommodate future additions to the statutory section.

17 **SECTION 4.9.** This Part becomes effective September 1, 2019, and applies to sales  
18 occurring on or after that date.

## 19 **PART V. OTHER BUSINESS TAX CHANGES**

20 **SECTION 5.1.(a)** G.S. 105-130.5(b) reads as rewritten:

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

23 ...

24 (31) To the extent included in federal taxable income, the amount received by a  
25 taxpayer as an economic incentive pursuant to G.S. 143B-437.012 or Part 2G  
26 or 2H of Article 10 of Chapter 143B of the General Statutes."

27 **SECTION 5.1.(b)** G.S. 105-153.5(b) reads as rewritten:

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

31 ...

32 (14) The amount received by a taxpayer as an economic incentive pursuant to  
33 G.S. 143B-437.012 or Part 2G or 2H of Article 10 of Chapter 143B of the  
34 General Statutes."

35 **SECTION 5.1.(c)** This section is effective for taxable years beginning on or after  
36 January 1, 2019, and applies to amounts received by a taxpayer pursuant to an economic incentive  
37 agreement entered into on or after that date.

38 **SECTION 5.2.** G.S. 105-129.110 reads as rewritten:

39 "**§ 105-129.110. Sunset.**

40 This Article expires for qualified rehabilitation expenditures and rehabilitation expenses  
41 incurred on or after ~~January 1, 2020.~~ January 1, 2024. For qualified rehabilitation expenditures  
42 and rehabilitation expenses incurred prior to ~~January 1, 2020,~~ January 1, 2024, this Article expires  
43 for property not placed in service by ~~January 1, 2028.~~ January 1, 2032."

44 **SECTION 5.3.(a)** G.S. 105-164.13(11b) reads as rewritten:

45 "(11b) Sales of aviation gasoline and jet fuel to an interstate air business for use in a  
46 commercial aircraft. For purposes of this subdivision, the term "commercial  
47 aircraft" has the same meaning as defined in subdivision (45a) of this section.  
48 This exemption also applies to aviation gasoline and jet fuel purchased for use  
49 in a commercial aircraft in interstate or foreign commerce by a person whose  
50

1 primary business is scheduled passenger air transportation. This subdivision  
 2 expires ~~January 1, 2020.~~ January 1, 2024."

3 **SECTION 5.3.(b)** G.S. 105-164.13(65) and (65a) read as rewritten:

4 "(65) This subdivision expires ~~January 1, 2020.~~ January 1, 2024. Sales of the  
 5 following to a professional motorsports racing team or a related member of a  
 6 team for use in competition in a sanctioned race series:

7 a. The sale, lease, or rental of an engine.

8 b. The sales price of or gross receipts derived from a service contract on,  
 9 or repair, maintenance, and installation services for, a transmission, an  
 10 engine, rear-end gears, and any other item that is purchased, leased, or  
 11 rented and that is exempt from tax under this subdivision or that is  
 12 allowed a sales tax refund under G.S. 105-164.14A(a)(5).

13 c. The gross receipts derived from an agreement to provide an engine to  
 14 a professional motorsports racing team or related member of a team  
 15 for use in competition in a sanctioned race series, where such  
 16 agreement does not meet the definition of a "service contract" as  
 17 defined in G.S. 105-164.3 but may meet the definition of the term  
 18 "lease or rental" as defined in G.S. 105-164.3.

19 (65a) An engine or a part to build or rebuild an engine for the purpose of providing  
 20 an engine under an agreement to a professional motorsports racing team or a  
 21 related member of a team for use in competition in a sanctioned race series.  
 22 This subdivision expires ~~January 1, 2020.~~ January 1, 2024."

23 **SECTION 5.3.(c)** G.S. 105-164.14A(a)(4) and (a)(5) read as rewritten:

24 "(4) Motorsports team or sanctioning body. – A professional motorsports racing  
 25 team, a motorsports sanctioning body, or a related member of such a team or  
 26 body is allowed a refund of the sales and use tax paid by it in this State on  
 27 aviation gasoline or jet fuel that is used to travel to or from a motorsports event  
 28 in this State, to travel to a motorsports event in another state from a location  
 29 in this State, or to travel to this State from a motorsports event in another state.  
 30 For purposes of this subdivision, a "motorsports event" includes a motorsports  
 31 race, a motorsports sponsor event, and motorsports testing. This subdivision  
 32 is repealed for purchases made on or after ~~January 1, 2020.~~ January 1, 2024.

33 (5) Professional motorsports team. – A professional motorsports racing team or a  
 34 related member of a team is allowed a refund of fifty percent (50%) of the  
 35 sales and use tax paid by it in this State on tangible personal property, other  
 36 than tires or accessories, that comprises any part of a professional motorsports  
 37 vehicle. For purposes of this subdivision, "motorsports accessories" includes  
 38 instrumentation, telemetry, consumables, and paint. This subdivision is  
 39 repealed for purchases made on or after ~~January 1, 2020.~~ January 1, 2024."

40 **SECTION 5.4.** Except as otherwise provided, this Part is effective when it becomes

41 law.

## 42 **PART VI. FACILITATE RESPONSE TO DISASTERS**

43 **SECTION 6.1.** Part 8 of Article 166A of the General Statutes is amended by adding  
 44 a new section to read:

45 **§ 166A-19.70A. Tax and business relief for critical infrastructure businesses and**  
 46 **employees during a disaster response period.**

47 (a) **Purpose.** – The State finds that it is appropriate to exempt from certain State laws  
 48 **businesses and employees who come from out-of-state to provide temporary resources and**  
 49 **personnel to assist in disaster-related work related to critical infrastructure in response to a**  
 50 **disaster declaration.**  
 51

- 1        (b) Definitions. – In addition to the definitions in G.S. 166A-19.3, the following  
2 definitions apply in this section:
- 3            (1) Critical infrastructure. – Property and equipment owned or used by a critical  
4 infrastructure company for utility or communications transmission services to  
5 the public in the State. Examples of critical infrastructure include  
6 communications networks, electric generation, transmission and distribution  
7 systems, natural gas transmission and distribution systems, water pipelines,  
8 and related support facilities. Related support facilities may include buildings,  
9 offices, lines, poles, pipes, structures, and equipment.
- 10          (2) Critical infrastructure company. – One of the following:  
11            a. A registered public communications provider.  
12            b. A registered public utility.
- 13          (3) Disaster-related work. – Repairing, renovating, installing, building, or  
14 performing services on critical infrastructure that has been damaged,  
15 impaired, or destroyed as a result of a disaster or emergency in an area covered  
16 by the disaster declaration.
- 17          (4) Disaster response period. – A period that begins ten days prior to the first day  
18 of a disaster declaration and extends for 60 days following the expiration of  
19 the disaster declaration.
- 20          (5) Out-of-state business. – A person that, except with regard to the performance  
21 of disaster-related work, meets all of conditions of this subdivision. The term  
22 may include an affiliate or subsidiary of a critical infrastructure company. The  
23 conditions are as follows:  
24            a. Has no physical presence in the State.  
25            b. Does not conduct business operations in this State.  
26            c. Is not registered with any State agency to conduct business in the State.  
27            d. Has not been required to file any tax returns with the State for three  
28 years prior to the disaster response period, other than those arising  
29 from the performance of disaster-related work during a tax year prior  
30 to the enactment of this section.
- 31          (6) Out-of-state employee. – A nonresident who is an employee of an out-of-state  
32 business entitled to relief under subsection (c) of this section or a nonresident  
33 employee of a critical infrastructure company temporarily in the State to  
34 perform disaster-related work during the disaster response period. The term  
35 does not include a nonresident who otherwise works in this State.
- 36          (7) Registered public communications provider. – A person registered to conduct  
37 business in this State prior to the disaster declaration that provides the  
38 transmission to the public of one or more of the following:  
39            a. Broadband.  
40            b. Mobile telecommunications.  
41            c. Telecommunications.  
42            d. Wireless Internet access.
- 43          (8) Registered public utility. – A person registered to conduct business in this  
44 State prior to the disaster declaration that is subject to control of one or more  
45 of the following entities:  
46            a. North Carolina Utilities Commission.  
47            b. Federal Communications Commission.  
48            c. Federal Energy Regulatory Commission.
- 49        (c) State Relief for Out-of-State Business. – An out-of-state business performing  
50 disaster-related work in this State during a disaster response period at the request of a critical

1 infrastructure company is not considered to be conducting business in this State, and as such is  
2 exempt from the following statutory requirements:

- 3 (1) Franchise tax, as provided under G.S. 105-125.
- 4 (2) Income tax, as provided under G.S. 105-130.11.
- 5 (3) S-corporation income tax, as provided under G.S. 105-131.7.
- 6 (4) Information returns, as provided under G.S. 105-154(a).
- 7 (5) Unemployment tax, as provided under G.S. 96-9.2.
- 8 (6) Workers' compensation, as provided under G.S. 97-13.
- 9 (7) Registration with the Secretary of State to transact business in this State, as  
10 provided under G.S. 55-1-51.

11 (d) State Relief for Out-of-State Employee. – An out-of-state employee is not required to  
12 pay State income tax, or file an income tax return, on earnings received for disaster-related work  
13 performed during a disaster response period, as provided in G.S. 105-153.4(f) and  
14 G.S. 105-153.8(a)(2). The employer of an out-of-state employee is not required to withhold  
15 income tax from the wages of the employee, as provided in G.S. 105-163.2(f).

16 (e) Notification. – A critical infrastructure company that requests an out-of-state business  
17 to perform disaster-related work in this State during the disaster response period must notify the  
18 State Emergency Response Team within 30 business days of the out-of-state business's entry into  
19 the State of the business's presence in the State. The notification must include the contact  
20 information of the critical infrastructure company that requested the presence of the out-of-state  
21 business as well as the following information about the out-of-state business: name, state of  
22 domicile, principal business address, federal tax identification number, date of entry, and any  
23 other information required by the State Emergency Response Team. The State Emergency  
24 Response Team must disseminate the information to the appropriate State agencies. Failure of  
25 the critical infrastructure company to provide this information in a timely manner does not  
26 invalidate the relief provided by this section so long as the company provides it to the appropriate  
27 State agency upon request.

28 (f) Limitation. – The exemptions from the State laws provided by this section cease to  
29 apply when the disaster response period expires. An out-of-state business or out-of-state  
30 employee that remains in the State after the disaster response period expires must abide by all  
31 State and local registration, license, and filing requirements that apply to any other out-of-state  
32 business and out-of-state employee doing business in this State."

33 **SECTION 6.2.(a)** Article 1 of Chapter 55 of the General Statutes is amended by  
34 adding a new section to read:

35 **"§ 55-1-51. Exemption for disaster relief.**

36 (a) Critical Infrastructure. – In accordance with the policy established in  
37 G.S. 166A-19.70A, an out-of-state business performing disaster-related work in this State during  
38 a disaster response period at the request of a critical infrastructure company is not required to  
39 obtain a certificate of authority from the Secretary of State as otherwise required under  
40 G.S. 55-15-01.

41 (b) Motor Fuel. – A person issued a temporary license by the Department of Revenue  
42 under G.S. 105-449.69A to import, export, distribute, or transport motor fuel in this State in  
43 response to a disaster declaration is not required to obtain a certificate of authority from the  
44 Secretary of State to transact business in this State for the duration of the temporary license."

45 **SECTION 6.2.(b)** G.S. 96-9.2(a) reads as rewritten:

46 "(a) Required Contribution. – An employer is required to make a contribution in each  
47 calendar year to the Unemployment Insurance Fund in an amount equal to the applicable  
48 percentage of the taxable wages the employer pays its employees during the year for services  
49 performed in this State. An employer may not deduct the contributions due in whole or in part  
50 from the remuneration of the individuals employed. Taxable wages are determined in accordance



1 with G.S. 96-9.3. The applicable percentage for an employer is considered the employer's  
2 contribution rate and determined in accordance with this section.

3 In accordance with the policy established in G.S. 166A-19.70A, an out-of-state business  
4 performing disaster-related work in this State during a disaster response period at the request of  
5 a critical infrastructure company is exempt from the provisions of this Chapter. The definitions,  
6 provisions, and limitations in G.S. 166A-19.70A apply in this section."

7 **SECTION 6.2.(c)** G.S. 97-13 is amended by adding a new subsection to read:

8 "**§ 97-13. Exceptions from provisions of Article.**

9 (e) Disaster Relief. – In accordance with the policy established in G.S. 166A-19.70A, an  
10 out-of-state business performing disaster-related work in this State during a disaster response  
11 period at the request of a critical infrastructure company is exempt from the provisions of this  
12 Chapter. The definitions, provisions, and limitations in G.S. 166A-19.70A apply in this  
13 subsection."

14 **SECTION 6.2.(d)** G.S. 105-125(a) is amended by adding a new subdivision to read:

15 "**§ 105-125. Exempt corporations.**

16 (a) Exemptions. – The following corporations are exempt from the taxes levied by this  
17 Article. Upon request of the Secretary, an exempt corporation must establish its claim for  
18 exemption in writing:

19 ...

20 (9) In accordance with the policy established in G.S. 166A-19.70A, an  
21 out-of-state business performing disaster-related work in this State during a  
22 disaster response period at the request of a critical infrastructure company is  
23 exempt from the provisions of this Article. The definitions, provisions, and  
24 limitations in G.S. 166A-19.70A apply in this subdivision."

25 **SECTION 6.2.(e)** G.S. 105-130.11(a) is amended by adding a new subdivision to  
26 read:

27 "(a) Exempt Organizations. – Except as provided in subsections (b) and (c), the following  
28 organizations and any organization that is exempt from federal income tax under the Code are  
29 exempt from the tax imposed under this Part.

30 ...

31 (12) In accordance with the policy established in G.S. 166A-19.70A, an  
32 out-of-state business performing disaster-related work in this State during a  
33 disaster response period at the request of a critical infrastructure company is  
34 exempt from the provisions of this Part. The definitions, provisions, and  
35 limitations in G.S. 166A-19.70A apply in this subdivision."

36 **SECTION 6.2.(f)** G.S. 105-131.7(a) reads as rewritten:

37 "(a) An S Corporation incorporated or doing business in the State shall file with the  
38 Department an annual return, on a form prescribed by the Secretary, on or before the due date  
39 prescribed for the filing of C Corporation returns in G.S. 105-130.17. The return shall show the  
40 name, address, and social security or federal identification number of each shareholder, income  
41 attributable to the State and the income not attributable to the State with respect to each  
42 shareholder as defined in G.S. 105-131(b)(4) and (5), and such other information as the Secretary  
43 may require.

44 In accordance with the policy established in G.S. 166A-19.70A, an S Corporation that is an  
45 out-of-state business performing disaster-related work in this State during a disaster response  
46 period at the request of a critical infrastructure company is not required to file an annual return  
47 for income derived for the work performed during this period. The definitions, provisions, and  
48 limitations in G.S. 166A-19.70A apply to this subsection."

49 **SECTION 6.2.(g)** G.S. 105-153.4 is amended by adding a new subsection to read:

50 "**§ 105-153.4. North Carolina taxable income defined.**

51 ...

1       (f) Disaster Relief Tax Exclusion. – In accordance with the policy established in  
 2 G.S. 166A-19.70A, an out-of-state business and an out-of-state employee performing  
 3 disaster-related work in this State during a disaster response period at the request of a critical  
 4 infrastructure company is not considered to be conducting business in this State for the work  
 5 performed during this period. The definitions, provisions, and limitations in G.S. 166A-19.70A  
 6 apply to this subsection. Accordingly, North Carolina taxable income, for purposes of this Part,  
 7 does not include the following:

- 8           (1) Nonresident employee. – The earnings paid to an out-of-state employee.  
 9           (2) S Corporations shareholders. – A shareholder's pro rata share of S Corporation  
 10 income if the income is attributable to work performed by the S Corporation  
 11 as an out-of-state business performing disaster-related work in this State  
 12 during a disaster response period at the request of a critical infrastructure  
 13 company.  
 14           (3) Partners and members of unincorporated business. – The amount of a partner's  
 15 or member's distributive share of the total net income of the business of a  
 16 partnership or another unincorporated business if the income is attributable to  
 17 work performed by an out-of-state business performing disaster-related work  
 18 in this State during a disaster response period at the request of a critical  
 19 infrastructure company."

20       **SECTION 6.2.(h)** G.S. 105-153.8(a)(2) reads as rewritten:

21       "**§ 105-153.8. Income tax returns.**

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

- 24       ...
- 25       (2) Every nonresident individual who ~~meets all of the following requirements:~~(i)  
 26 has gross income under the Code that exceeds the applicable standard  
 27 deduction amount provided in G.S. 105-153.5(a)(1) and (ii) receives  
 28 a. ~~Receives~~ during the taxable year gross income that is derived from  
 29 North Carolina sources and is attributable to the ownership of any  
 30 interest in real or tangible personal property in this State, is derived  
 31 from a business, trade, profession, or occupation carried on in this  
 32 State, or is derived from gambling activities in this State. This  
 33 subdivision does not apply to a nonresident individual who is not  
 34 subject to withholding under G.S. 105-163.2(f).  
 35 b. ~~Has gross income under the Code that exceeds the applicable standard~~  
 36 deduction amount provided in G.S. 105-153.5(a)(1).

37       ...."

38       **SECTION 6.2.(i)** G.S. 105-154(c) reads as rewritten:

39       "(c) Information Returns of Partnerships. – A partnership doing business in this State and  
 40 required to file a return under the Code shall file an information return with the Secretary. A  
 41 partnership that the Secretary believes to be doing business in this State and to be required to file  
 42 a return under the Code shall file an information return when requested to do so by the Secretary.  
 43 The information return shall contain all information required by the Secretary. It shall state  
 44 specifically the items of the partnership's gross income, the deductions allowed under the Code,  
 45 each partner's distributive share of the partnership's income, and the adjustments required by this  
 46 Part. A partner's distributive share of partnership net income includes any guaranteed payments  
 47 made to the partner. The information return shall also include the name and address of each  
 48 person who would be entitled to share in the partnership's net income, if distributable, and the  
 49 amount each person's distributive share would be. The information return shall be signed by one  
 50 of the partners under affirmation in the form required by the Secretary.

1 A partnership that files an information return under this subsection shall furnish to each  
2 person who would be entitled to share in the partnership's net income, if distributable, any  
3 information necessary for that person to properly file a State income tax return. The information  
4 shall be in the form prescribed by the Secretary and must be furnished on or before the due date  
5 of the information return.

6 In accordance with the policy established in G.S. 166A-19.70A, a partnership that is an  
7 out-of-state business performing disaster-related work in this State during a disaster response  
8 period at the request of a critical infrastructure company is not required to file an information  
9 return for income derived for the work performed during this period. The definitions, provisions,  
10 and limitations in G.S. 166A-19.70A apply to this subsection."

11 **SECTION 6.2.(j)** G.S. 105-163.2 reads as rewritten:

12 **"§ 105-163.2. Employers must withhold taxes.**

13 (a) Withholding Required. – ~~An~~ Except as provided in subsection (f) of this section, an  
14 employer shall deduct and withhold from the wages of each employee the State income taxes  
15 payable by the employee on the wages. For each payroll period, the employer shall withhold  
16 from the employee's wages an amount that would approximate the employee's income tax  
17 liability under Article 4 of this Chapter if the employer withheld the same amount from the  
18 employee's wages for each similar payroll period in a calendar year. In calculating an employee's  
19 anticipated income tax liability, the employer shall allow for the additions that employee is  
20 required to make under Article 4 of this Chapter and the deductions, and credits to which the  
21 employee is entitled under Article 4 of this Chapter. The amount of State income taxes withheld  
22 by an employer is held in trust for the Secretary.

23 ...

24 (f) Nonresident Disaster Relief Employees. – In accordance with the policy established  
25 in G.S. 166A-19.70A, an employer is not required to withhold from the wages of its out-of-state  
26 employees the State income taxes that may otherwise apply for disaster-related work performed  
27 in this State during a disaster response period. The definitions, provisions, and limitations in  
28 G.S. 166A-19.70A apply in this subsection."

29 **SECTION 6.3.** G.S. 105-130.5(a) is amended by adding a new subdivision to read:

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

32 ...

33 (30) Payments made to a related party that is not subject to tax under this Chapter  
34 in accordance with the policy established in G.S. 166A-19.70A, to the extent  
35 the payments are deducted in determining federal taxable income. For  
36 purposes of this subdivision, the term "related entity" has the same meaning  
37 as in G.S. 105-130.7A(b)(4)."

38 **SECTION 6.4.** Part 2 of Article 36B of Chapter 105 of the General Statutes is  
39 amended by adding a new section to read:

40 **"§ 105-449.69A. Temporary license during disaster response period.**

41 (a) Temporary License. – The Secretary may grant a temporary license to an applicant to  
42 import, export, distribute, or transport motor fuel in this State in response to a disaster declaration.  
43 The term "disaster declaration" has the same meaning as defined in G.S. 166A-19.3. The  
44 temporary license expires upon the expiration of the disaster declaration. A temporary license  
45 issued under this section may not be renewed or a new temporary license granted if the licensee  
46 failed to file the required returns or make payments of the required taxes.

47 (b) Requirements. – To obtain a temporary license, a person must file an application with  
48 the Secretary on a form prescribed by the Secretary within seven calendar days from the date of  
49 the disaster declaration. An application must include all of the following information:

50 (1) The legal name of the business and the trade name, if applicable, under which  
51 the person will transact business within the State.

- 1           (2)    The federal identification number of the business or, if such number is
- 2                    unavailable, the social security number of the owner.
- 3           (3)    The location, with a street number address, of the principal office or place of
- 4                    business and the location where records will be made available for inspection.
- 5           (4)    Any other information required by the Secretary.
- 6       (c)    Exceptions. – The Secretary may issue a temporary license under this section as an
- 7    importer, exporter, distributor, or transporter without requiring the applicant to file with the
- 8    Secretary a bond or an irrevocable letter of credit, as otherwise required by G.S. 105-449.72, and
- 9    without requiring the applicant to be authorized to transact business in this State with the
- 10 Secretary of State."

11                    **SECTION 6.5.** This Part is effective when it becomes law and applies to taxable  
12 years beginning on or after January 1, 2019.

13  
14 **PART VII. EFFECTIVE DATE**

15                    **SECTION 7.** Except as otherwise provided, this act is effective when it becomes  
16 law.