Bill Draft 2013-TMxz-5: Income Tax Changes.

2013-2014 General Assembly

Committee:	Revenue Laws Study Committee	**Date:**	December 9, 2013
Introduced by:		**Prepared by:**	Greg Roney Committee Counsel
Analysis of:	2013-TMxz-5		

***SUMMARY:** This draft makes clarifying, conforming, and administrative changes to the income tax laws.*

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE:

Section	Explanation and Effective Date
1	This section corrects a cross reference. This section is effective when it becomes law.
2	This section updates the statutory references in G.S. 105-160.2 which imposes income tax on estates and trusts. Estates and trusts generally receive the same modifications to taxable income and tax rates as single individuals. House Bill 998, S.L. 2013-316, moved the statutes allowing modifications to North Carolina taxable income and setting the tax rate. This section is effective for taxable years beginning on or after January 1, 2014.
3	This section deletes the definition of "Dependent" because the term is not required after the changes made by House Bill 998, S.L. 2013-316. This section is effective when it becomes law.
4	This section updates the terminology used in the statutes authorizing withholding of income tax from wages. After House Bill 998, S.L. 2013-316, "exemptions" are not part of the computation of estimated tax to withhold from wages. Instead, the Department of Revenue uses the term "allowances." This section is effective when it becomes law.
5	This section deletes a statutory formula used to calculate the amount of estimated tax to withhold from pension payments where the recipient fails to file a withholding tax form. After House Bill 998, S.L. 2013-316, the statutory formula no longer approximates recipient's tax liability. Recipients who do not complete the tax form to calculate withholding from pension payments will be treated the same as employees who do not complete the tax form. This section is effective when it becomes law.
6	This section deletes an inconsistent effective date for the repeal of G.S. 105-159.2 which formerly allowed a taxpayer to checkoff a donation to the North Carolina Public Campaign Fund. Section 38.1.(f) of S.L. 2013-381 repealed G.S. 105-159.2 effective July 1, 2013. This section makes the effective date of a duplicative repeal in Section 21.1.(c) of S.L. 2013 360 effective at the same time.
7	S.L. 2013-316 limited the federally allowed itemized deductions for mortgage interest expenses paid and property taxes paid on real estate but it capped the deduction at $20,000.

Section	Explanation and Effective Date
	The intent of the legislation was for the $20,000 cap to apply to the cumulative deduction for a married couple, regardless of how the couple files a return. At the request of the Department of Revenue, this section clarifies this intent. This section is effective for taxable years beginning on or after January 1, 2014.
8	This section does two things. First, it corrects the dollar amount of the section 179 expense investment limit. In the American Taxpayer Relief Act of 2013, Congress extended the $500,000/$2,000,000 accelerated section 179 expense deduction allowances for 2013 and 2014. The intent of S.L. 2013-10 was to decouple from this federal provision and return to the limits that would have been applicable under the Code as written in December 2010. The act erroneously referred to the Code as defined in May 2010. The Code was amended three times in 2010, and the changes included three different section 179 expense limits. S.L. 2013-414 rewrote the statutes that decouple from the federal accelerated depreciation expensing to make them clearer to understand. As part of the rewrite, the subsection decoupling from the section 179 expense limits sets forth the limits as opposed to referring to the Code on a certain date. In setting forth the limits, the dollar amount of the investment limit should have been $200,000 rather than $125,000. Second, it makes changes to ensure that qualifying taxpayers may receive the benefit of the add-back deductions. Beginning in 2002, Congress has allowed taxpayers to depreciate certain assets more quickly than would otherwise be allowed – 100% bonus depreciation and section 179 expense deductions. Many states, including North Carolina, have decoupled from those provisions primarily because the fiscal impact of conforming to the greater depreciation rules would have been too costly. Instead of granting the larger depreciation in the initial years, North Carolina required taxpayers to add-back 85% of the deduction in the first year and to deduct 20% of this amount over the next five years. Taxpayers who changed their form of business entity or who merged with subsidiaries within the five-year period of deductions were not allowed to take the remaining deductions because the taxable entity that made the add-back and received the initial deductions either no longer existed or no longer owned the depreciable asset. The result in some cases was that the asset did not receive the full benefit of the deduction. S.L. 2013-414 changed the law to allow the transferee of an asset, where the tax basis of the transferred asset carried over from the transferor to the transferee for federal income tax purposes, to add any remaining deductions to the basis of the transferred asset and to depreciate the adjusted basis over the remaining life of the asset. For transactions that occurred prior to January 1, 2013, the law provided an election whereby the transferee could make the basis adjustment for any deductions foregone by the transferor. The changes are effective for taxable years beginning on or after January 1, 2013. Subsections (c) and (d) become effective for taxable years beginning on or after January 1, 2014, to recognize the rewrite of the statutes under House Bill 998, S.L. 2013-316.
9	Property that is appraised at its present use value may remain in the program if the property is under an enforceable conservation easement that would qualify for the conservation easement tax credit. S.L. 2013-316 repealed the conservation easement tax credit for taxable years beginning on or after January 1, 2014. The repeal of the tax credit was not intended to effect property in the present use value program. Section 7 puts the applicable provisions that were provided in the tax credit statutes in Chapter 113A and makes the necessary conforming changes in other statutes.

Section	Explanation and Effective Date
	This section is effective when it becomes law.
10	S.L. 2013-316 repealed the individual income tax credit for property taxes paid on farm machinery. This section removes a reference to the tax credit that is no longer needed in the property tax statutes. This section is effective when it becomes law.