

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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BILL DRAFT 2013-SVxz-22A [v.8] (04/15)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
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Short Title: Omnibus Tax Law Changes.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED  
AN ACT TO AMEND THE REVENUE LAWS AS RECOMMENDED BY THE REVENUE  
LAWS STUDY COMMITTEE.  
The General Assembly of North Carolina enacts:

**PART I: DEDUCTION FOR STATE NET LOSS**

**SECTION 1.1.(a)** G.S. 105-130.5(b) reads as rewritten:

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

...

(4) ~~Losses in the nature of~~ Any unused portion of a net economic loss as allowed  
under G.S. 105-130.8A(e). ~~losses sustained by the corporation in any or all~~  
~~of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A~~  
~~corporation required to allocate and apportion its net income under the~~  
~~provisions of G.S. 105-130.4 shall deduct its allocable net economic loss~~  
~~only from total income allocable to this State pursuant to the provisions of~~  
~~G.S. 105-130.8. This subdivision expires for taxable years beginning on or~~  
~~after January 1, 2030.~~

(4a) A State net loss as allowed under G.S. 105-130.8A. A corporation may  
deduct its allocable and apportionable State net loss only from total income  
allocable and apportionable to this State.

..."

**SECTION 1.1.(b)** G.S. 105-130.8 is repealed.

**SECTION 1.1.(c)** Part 1 of Article 4 of Chapter 105 of the General Statutes is  
amended by adding a new section to read:

**"§ 105-130.8A. Net loss provisions.**

(a) State Net Loss. – A taxpayer's State net loss for a taxable year is the amount by  
which allowable deductions for the year, other than prior year losses, exceed gross income  
under the Code for the year adjusted as provided in G.S. 105-130.5. In the case of a corporation  
that has income from business activity within and without this State the loss must be allocated  
and apportioned to this State in the year of the loss in accordance with G.S. 105-130.4.

(b) Deduction. – A taxpayer may carry forward a State net loss the taxpayer incurred in  
a prior taxable year and deduct it in the current taxable year, subject to the limitations in this  
subsection:



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(1) The loss was incurred in one of the preceding 15 taxable years.

(2) Any loss carried forward is applied to the next succeeding taxable year before any portion of it is carried forward and applied to a subsequent taxable year.

(c) Mergers and Acquisitions. – The Secretary must apply the standards contained in regulations adopted under sections 381 and 382 of the Code in determining the extent to which a loss survives a merger or an acquisition.

(d) Administration. – A taxpayer claiming a deduction under this section must maintain and make available for inspection by the Secretary all records necessary to determine and verify the amount of the deduction. The Secretary or the taxpayer may redetermine a loss originating in a taxable year that is closed under the statute of limitations for the purpose of determining the amount of loss that can be carried forward to a taxable year that remains open under the statute of limitations.

(e) Net Economic Loss Carryforward. – For taxable years beginning before January 1, 2015, a taxpayer is allowed a net economic loss as calculated under G.S. 105-130.8. In determining and verifying the amount of a net economic loss incurred or carried forward for taxable years beginning before January 1, 2015, the provisions of G.S. 105-130.8 apply. Any unused portion of a net economic loss carried forward to taxable years beginning on or after January 1, 2015, is administered in accordance with this section. This subsection expires for taxable years beginning on or after January 1, 2030."

**SECTION 1.1.(d)** This Part becomes effective for taxable years beginning on or after January 1, 2015.

## **PART II: OTHER INCOME TAX CHANGES**

**SECTION 2.1.(a)** G.S. 105-130.5B reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for the taxable year.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

<b>Taxable Year of 85% Add-Back</b>	<b>Dollar Limitation</b>	<b>Investment Limitation</b>
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	<del>\$125,000</del> \$200,000

(e) **Bonus Asset Basis.** – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset.

(f) **Prior Transactions.** – For any transaction meeting both the requirements of subsection (e) of this section prior to January 1, 2013, and the conditions of this subsection, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax ~~return, to the extent that the~~ return. If the asset has been

disposed of or has no remaining useful life on the books of the transferee, the remaining bonus depreciation deduction may be allowed on the transferee's 2013 tax return. For this subsection to apply, the following conditions must be met:

(1) The transferor has not taken the bonus depreciation deduction on a prior return and provided that the return.

(2) The transferor certifies in writing to the transferee that the transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset."

**SECTION 2.1.(b)** G.S. 105-134.6A reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	Dollar Limitation	Investment Limitation
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	\$125,000 \$200,000"

...

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor that added bonus depreciation to its federal taxable income or adjusted gross income associated with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting both the requirements of subsection (e) of this section prior to January 1, 2013, and the conditions of this subsection, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax return, to the extent that the return. If the asset has been disposed of or has no remaining useful life on the books of the transferee, the remaining bonus depreciation deduction may be allowed on the transferee's 2013 tax return. For this subsection to apply, the following conditions must be met:

(1) The transferor and or any owner in a transferor has not taken the bonus depreciation deduction on a prior return and provided that the return.

(2) The transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset and each transferor or owner

in a transferor certifies in writing to the transferee that the transferor or owner in a transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset.

(3) The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

...  
(h) Definitions. — ~~For purposes of this section, a "transferor" is an~~ The following definitions apply in this section:

(1) Transferor. — An individual, partnership, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a ~~beneficiaries.~~

(2) Owner in a transferor. — One or more of the following of a transferor:

a. A partner, shareholder, member, or member.

b. A or beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter, of a transferor. ~~Chapter.~~

**SECTION 2.1.(c)** G.S. 105-153.6 reads as rewritten:

"(c) Section 179 Expense. — For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

<b>Taxable Year of 85% Add-Back</b>	<b>Dollar Limitation</b>	<b>Investment Limitation</b>
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	<del>\$125,000</del> <u>\$200,000"</u>

...  
(e) Bonus Asset Basis. — In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor that added bonus depreciation to its federal taxable income or adjusted gross income associated with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

(f) Prior Transactions. — For any transaction meeting both the requirements of subsection (e) of this section prior to January 1, 2013, and the conditions of this subsection, the transferor and transferee can make an election to make the basis adjustment allowed in that

subsection on the transferee's 2013 tax return, ~~to the extent that the~~ return. If the asset has been disposed of or has no remaining useful life on the books of the transferee, the remaining bonus depreciation deduction may be allowed on the transferee's 2013 tax return. For this subsection to apply, the following conditions must be met:

- (1) ~~The transferor and~~ or any owner in a transferor has not taken the bonus depreciation deduction on a prior ~~return and provided that the~~ return.
- (2) The transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset and each transferor or owner in a transferor certifies in writing to the transferee that the transferor or owner in a transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset.
- (3) The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

...  
(h) Definitions. ~~For purposes of this section, a "transferor" is an~~ The following definitions apply in this section:

- (1) Transferor. – An individual, partnership, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a beneficiaries.
- (2) Owner in a transferor. – One or more of the following of a transferor:
  - a. A partner, shareholder, ~~member, or member.~~
  - b. A ~~or~~ beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter, of a transferor. Chapter."

**SECTION 2.1.(d)** Subsection (c) of this section is effective for taxable years beginning on or after January 1, 2014. The remainder of this section is effective for taxable years beginning on or after January 1, 2013.

**SECTION 2.2.(a)** G.S. 105-153.5(a) reads as rewritten:

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

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. ~~In the case of a married couple filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims the itemized deductions amount:~~

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

<b>Filing Status</b>	<b>Standard Deduction</b>
Married, filing jointly	\$15,000
Head of Household	12,000
Single	7,500
Married, filing separately	7,500.

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

- a. The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year.

b. The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount claimed by the taxpayer as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars (\$20,000). For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed \$20,000. For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds \$20,000, these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year."

**SECTION 2.2.(b)** This section is effective for taxable years beginning on or after January 1, 2014.

**SECTION 2.3.(a)** G.S. 105-160.2 reads as rewritten:

**"§ 105-160.2. Imposition of tax.**

The tax imposed by this Part applies to the taxable income of estates and trusts as determined under the provisions of the Code except as otherwise provided in this Part. The taxable income of an estate or trust is the same as taxable income for such an estate or trust under the provisions of the Code, adjusted as provided in G.S. 105-153.5 and G.S. 105-153.6, G.S. 105-134.6 and G.S. 105-134.6A, except that the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6, G.S. 105-134.6 and G.S. 105-134.6A are apportioned between the estate or trust and the beneficiaries based on the distributions made during the taxable year. The tax is computed on the amount of the taxable income of the estate or trust that is for the benefit of a resident of this State, or for the benefit of a nonresident to the extent that the income (i) is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State or (ii) is derived from a business, trade, profession, or occupation carried on in this State. For purposes of the preceding sentence, taxable income and gross income is computed subject to the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6, G.S. 105-134.6 and G.S. 105-134.6A. The tax on the amount computed above is at the rates levied in G.S. 105-153.7, G.S. 105-134.2(a)(3). The fiduciary responsible for administering the estate or trust shall pay the tax computed under the provisions of this Part."

**SECTION 2.3.(b)** This section is effective for taxable years beginning on or after January 1, 2014.

**PART III: AGRICULTURAL EXEMPTION CERTIFICATE**

**SECTION 3.1.(a)** G.S. 105-164.13E reads as rewritten:

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

A qualifying farmer is a person who has an annual gross income for the preceding taxable year of ten thousand dollars (\$10,000) or more from farming operations or who has an average annual gross income for the three preceding taxable years of ten thousand dollars (\$10,000) or more from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. A qualifying farmer may apply to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires when a person

fails to meet the income threshold for three consecutive years or ceases to engage in farming operations. The

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. ~~A qualifying farmer is a farmer who has an annual gross income of ten thousand dollars (\$10,000) or more from farming operations for the preceding calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758:animals:~~

..."

**SECTION 3.1.(b)** G.S. 105-164.28A(a) reads as rewritten:

"(a) Authorization. – The Secretary may require a person who purchases an item that is exempt from tax or is subject to a preferential rate of tax depending on the status of the purchaser or the intended use of the item to obtain an exemption certificate from the Department to receive the exemption or preferential rate. ~~An~~ The Department must issue a preferential rate or use-based exemption number to a person who qualifies for the exemption or preferential rate. The number must be included on the person's certificate of exemption. A person who no longer qualifies for a preferential rate or use-based exemption number must notify the Secretary within 30 days to cancel the number.

An exemption certificate issued by the purchaser authorizes a retailer to sell an item to the holder of the certificate and either collect tax at a preferential rate or not collect tax on the sale, as appropriate. A person who no longer qualifies for an exemption certificate must give notice to each seller that may rely on the exemption certificate on or before the next purchase. A person who purchases an item under an exemption certificate is liable for any tax due on the sale-purchase if the Department determines that the person is not eligible for the certificate. ~~exemption certificate or if the person purchased items that do not qualify for an exemption under the exemption certificate.~~ The liability is relieved when the seller obtains the purchaser's name, address, type of business, reason for exemption, and exemption number in lieu of obtaining an exemption certificate."

**SECTION 3.1.(c)** A person who has an agricultural exemption certificate number issued prior to July 1, 2014, that meets the requirements of G.S. 105-164.13E for a qualifying farmer should apply for a new agricultural exemption certificate number before July 1, 2014, for use for qualifying purchases made on or after October 1, 2014. A person that meets the requirements of G.S. 105-164.13E for a qualifying farmer and who has an agricultural exemption certificate number issued prior to July 1, 2014, may continue to use that agricultural exemption certificate number for qualifying purchases made prior to October 1, 2014.

**SECTION 3.1.(d)** A person who has an agricultural exemption certificate number issued before July 1, 2014, that does not meet the requirements of G.S. 105-164.13E for a qualifying farmer must give notice to a seller that the person no longer qualifies for an exemption for purchases made on or after July 1, 2014, and the seller must collect any tax due on the sale. A seller that relies on a copy of an agricultural certificate of exemption and meets the requirements of G.S. 105-164.28 is not liable for any tax due on the sale.

**SECTION 3.1.(e)** This Part becomes effective July 1, 2014, and applies to purchases made on or after that date.

#### **PART IV: PREPAID MEAL PLANS**

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

##### **"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

~~(26b)~~(27) Prepaid calling service. – A right that meets all of the following requirements:

- a. Authorizes the exclusive purchase of telecommunications service.
- b. Must be paid for in advance.
- c. Enables the origination of calls by means of an access number, authorization code, or another similar means, regardless of whether the access number or authorization code is manually or electronically dialed.
- d. Is sold in predetermined units or dollars whose number or dollar value declines with use and is known on a continuous basis.

(27a) Prepaid meal plan. – A plan offered by an institution of higher education that meets all of the following requirements:

- a. Entitles a person to food or prepared food.
- b. Must be billed or paid for in advance.
- c. Provides for predetermined units or unlimited access to food or prepared food but does not include a dollar value that declines with use.

~~(27)~~(27b) Prepaid telephone calling service. – Prepaid calling service or prepaid wireless calling service.

~~(27a)~~(27c) Prepaid wireless calling service. – A right that meets all of the following requirements:

- a. Authorizes the purchase of mobile telecommunications service, either exclusively or in conjunction with other services.
- b. Must be paid for in advance.
- c. Is sold in predetermined units or dollars whose number or dollar value declines with use and is known on a continuous basis.

..."

**SECTION 4.1.(b)** G.S. 105-164.4(a) is amended by adding a new subdivision to

read:

**"§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(12) The sales price of or gross receipts derived from a prepaid meal plan. A bundle that includes a prepaid meal plan is taxable in accordance with G.S. 105-164.4D."

**SECTION 4.1.(c)** G.S. 105-164.4B is amended by adding a new subsection to

read:

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

"(g) Prepaid Meal Plan. – The gross receipts derived from a prepaid meal plan are sourced to the location where the food or prepared food is available to be consumed by the person."

**SECTION 4.1.(d)** G.S. 105-164.4D(a) reads as rewritten:

"(a) Tax Application. – Tax applies to the sales price of a bundled transaction unless one of the following applies:

- (1) Fifty percent (50%) test. – All of the products in the bundle are tangible personal property, the bundle includes one or more of the exempt products listed in this subdivision, and the price of the taxable products in the bundle does not exceed fifty percent (50%) of the price of the bundle:
  - a. Food exempt under G.S. 105-164.13B.



- b. A drug exempt under G.S. 105-164.13(13).
- c. Medical devices, equipment, or supplies exempt under G.S. 105-164.13(12).
- (2) Allocation. – The bundle includes a service, and the retailer determines an allocated price for each product in the bundle based on a reasonable allocation of revenue that is supported by the retailer's business records kept in the ordinary course of business. In this circumstance, tax applies to the allocated price of each taxable product in the bundle.
- (3) Ten percent (10%) test. – The price of the taxable products in the bundle does not exceed ten percent (10%) of the price of the bundle, and no other subdivision in this subsection applies.
- (4) Prepaid meal plan. – The bundle includes a prepaid meal plan and a dollar value that declines with use. In this circumstance, tax applies to the allocated price of the prepaid meal plan. The tax applies to items purchased with the dollar value that declines with use as the dollar value is presented for payment.
- (5) Tuition, room, and meals. – The bundle includes tuition, room, and meals offered by an institution of higher education. In this circumstance, tax applies to the allocated price of the meals. The institution determines the allocated price for meals based on a reasonable allocation of revenue that is supported by the institution's business records kept in the ordinary course of business."

**SECTION 4.1.(e)** G.S. 105-164.13 reads as rewritten:

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

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

- ...
- (26) Food and prepared food sold not for profit by a nonpublic or public school, including a charter school and a regional school, within the school building during the regular school day. For purposes of this exemption, the term "school" is an entity regulated under Chapter 115C of the General Statutes.
- ...
- (63) Food and prepared food to be provided to a person entitled to the food and prepared food under a prepaid meal plan subject to tax under G.S. 105-164.4(a)(12)."

**SECTION 4.1.(f)** This Part is effective when it becomes law and applies to gross receipts derived from a prepaid meal plan sold or billed on or after July 1, 2014.

**PART V: ADMISSIONS**

**SECTION 5.1.(a)** G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. For purposes of this section, the term "gross receipts" has the same meaning as the term "sales price". The general rate of tax is four and three-quarters percent (4.75%).

- ...
- (10) The general rate of tax applies to the gross receipts derived from an admission charges—charge to an entertainment—activity activity. Gross receipts derived from an admission charge to an entertainment activity are taxable in accordance with G.S. 105-164.4H. listed in this subdivision. Offering any of these listed activities is a service. An admission charge

includes a charge for a single ticket, a multioccasion ticket, a seasonal pass, an annual pass, and a cover charge.

An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price.

When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

Admission charges to the following entertainment activities are subject to tax:

a. A live performance or other live event of any kind.

b. A motion picture or film.

c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions."

**SECTION 5.1.(b)** G.S. 105-164.4B is amended by adding a new subsection to

read:

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

...

(g) Admissions. – The gross receipts derived from an admission charge, as defined in G.S. 105-164.4H, are sourced in accordance with G.S. 105-164.4H."

**SECTION 5.1.(c)** Article 5 of Chapter 105 of the General Statutes is amended by adding the following new section to read:

**"§ 105.164.4H. Entertainment activity.**

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

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

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

(3) Entertainment activity. – An activity listed in this subdivision:

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

b. A movie, motion picture, or film.

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

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

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

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

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

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

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

(d) Dual Remittance. – The tax due on the gross receipts derived from an admission charge may be partially reported and remitted to the operator of the venue for remittance to the Department and partially reported and remitted by the facilitator directly to the Department. The portion of the tax not reported and remitted to the operator of the venue must be reported and remitted directly by the facilitator to the Department. A facilitator that elects to remit tax under the dual remittance option is required to obtain a certificate of registration in accordance with G.S. 105-164.29. A facilitator is subject to the provisions of Article 9 of this Chapter.

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

(1) An amount paid for the right to participate in sporting activities. Examples of these types of charges include bowling fees, golf green fees, and gym memberships.

(2) Tuition, registration fees, or charges to attend instructional seminars, conferences, or workshops for educational purposes.

(3) A political contribution.

(4) A charge for life-time seat rights, lease, or rental of a suite or box for an entertainment activity, provided the charge is separately stated on an invoice or similar billing document given to the purchaser at the time of sale.

(5) An amount paid solely for transportation.

(f) Exemptions. – The following gross receipts derived from an admission charge to an entertainment activity are specifically exempt from the tax imposed by this Article:

(1) The portion of a membership charge that is deductible as a charitable contribution under section 170 of the Code.

(2) A donation that is deductible as a charitable contribution under section 170 of the Code.

(3) Charges for an amenity. If charges for amenities are separately stated on a billing document given to the purchaser at the time of the sale, then the tax does not apply to the separately stated charges for amenities. If charges for

amenities are not separately stated on the billing document given to the purchaser at the time of the sale, then the transaction is a bundled transaction and taxed in accordance with G.S. 105-164.4D except that G.S. 105-164.4D(a)(3) does not apply.

(4) An event that is sponsored by an elementary or secondary school. For purposes of this exemption, the term "school" is an entity regulated under Chapter 115C of the General Statutes.

(5) An event sponsored solely by a nonprofit entity that is exempt from tax under Article 4 of this Chapter if all of the following conditions are met:

- a. The entire proceeds of the activity are used exclusively for the entity's nonprofit purposes.
- b. The entity does not declare dividends, receive profits, or pay salary or other compensation to any members or individuals.
- c. The entity does not compensate any person for participating in the event, performing in the event, placing in the event, or producing the event. For purposes of this subdivision, the term "compensate" means any remuneration included in a person's gross income as defined in section 61 of the Code.

(g) Sourcing. – Admission to an entertainment activity is sourced to the location where admission to the entertainment activity may be gained by a person. When the location where admission may be gained is not known at the time of the receipt of the gross receipts for an admission charge, the sourcing principles in G.S. 105-164.4B(a) apply."

**SECTION 5.1.(d)** G.S. 105-164.13(60) reads as rewritten:

"(60) Admission charges to any of the following entertainment activities: Gross receipts derived from an admission charge to an entertainment activity are exempt as provided in G.S. 105-164.4G.

- a. ~~An event that is held at an elementary or secondary school and is sponsored by the school.~~
- b. ~~A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.~~
- c. ~~A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to the first two activities sponsored by the entity during a calendar year.~~
- d. ~~A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age at the time of enrollment.~~
- e. ~~A State attraction. A State attraction is a physical place supported with State funds that offers cultural, educational, historical, or recreational opportunities. The term "State funds" has the same meaning as defined in G.S. 143C-1-1."~~

**SECTION 5.1.(e)** G.S. 105-164.13(34) and (35) read as rewritten:

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

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

...

(34) Sales of items by a nonprofit civic, charitable, educational, scientific or literary organization when the net proceeds of the sales will be given or contributed to the State of North Carolina or to one or more of its agencies or instrumentalities, or to one or more nonprofit charitable organizations, one of whose purposes is to serve as a conduit through which such net proceeds will flow to the State or to one or more of its agencies or instrumentalities. This exemption does not apply to gross receipts derived from an admission charge to an entertainment activity.

(35) Sales by a nonprofit civic, charitable, educational, scientific, literary, or fraternal organization when all of the ~~following~~ conditions listed in this subdivision are met. This exemption does not apply to gross receipts derived from an admission charge to an entertainment activity.

- a. The sales are conducted only upon an annual basis for the purpose of raising funds for the organization's activities.
- b. The proceeds of the sale are actually used for the organization's activities.
- c. The products sold are delivered to the purchaser within 60 days after the first solicitation of any sale made during the organization's annual sales period."

**SECTION 5.1.(f)** Section 5(f) of S.L. 2013-316 reads as rewritten:

**"SECTION 5.(f)** This section becomes effective January 1, 2014, and applies to ~~admissions purchased~~ gross receipts derived from an admission charge sold at retail on or after that date. For admissions to a live event, the tax applies to the initial sale or resale of tickets occurring on or after that date; gross receipts received on or after January 1, 2014, for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1. Gross receipts derived from an admission charge sold at retail to a live event occurring on or after January 1, 2015, are taxable under G.S. 105-164.4H, regardless of when the initial sale of a ticket to the event occurred."

**SECTION 5.1.(g)** Subsection (d) of this section and G.S. 105-164.4H(f)(4) and (5), as enacted by subsection (c) of this section, become effective January 1, 2015. The remainder of this Part is effective when it becomes law.

## **PART VI: SERVICE CONTRACTS**

**SECTION 6.1.(a)** G.S. 105-105-164.3(38b) reads as rewritten:

### **"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(38b) Service contract. – A contract where the obligor under the contract agrees to maintain or repair tangible personal property or a motor vehicle. Examples of a service contract include A—a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, a maintenance agreement, a repair contract, or a similar agreement or contract by which the seller agrees to maintain or repair tangible personal property.

...."

**SECTION 6.1.(b)** G.S. 105-164.4(a)(11) reads as rewritten:

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

- (11) The general rate of tax applies to the sales price of or the gross receipts derived from a service contract. A service contract is taxed in accordance with G.S. 105-164.4I."

**SECTION 6.1.(c)** Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-164.4I. Service contracts.**

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

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

- (1) When a service contract is sold at retail to a purchaser by the obligor under the contract, the obligor is the retailer.
- (2) When a service contract is sold at retail to a purchaser by a facilitator on behalf of the obligor under the contract, the facilitator is the retailer unless the provisions of subdivision (3) of this subsection apply.
- (3) When a service contract is sold at retail to a purchaser by a facilitator on behalf of the obligor under the contract and there is an agreement between the facilitator and the obligor that states the obligor will be liable for the payment of the tax, the obligor is the retailer. The facilitator must send the retailer the tax due on the sales price of or gross receipts derived from the service contract no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the sales price or gross receipts is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the agreement between the retailer and the facilitator.

(b) Exemptions. – The tax imposed by this section does not apply to the sales price of or the gross receipts derived from a service contract applicable to any of the following items:

- (1) An item exempt from tax under this Article, other than a motor vehicle exempt from tax under G.S. 105-164.13(32).
- (2) A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.
- (3) An item purchased by a professional motorsports racing team for which the team may receive a sales tax refund under G.S. 105-164.14A(5).
- (4) An item subject to tax under Article 5F.

(c) Exceptions. – The tax does not apply to the sales price of or the gross receipts derived from a service contract for tangible personal property sold at retail that is or will become a part of real property unless the service contract is sold by the obligor or by the third party or facilitator on behalf of the obligor at the same time as the item of tangible personal property covered in the service contract. The tax imposed by this section does not apply to a security or similar monitoring contract for real property or to a renewal of a service contract where the tangible personal property becomes a part of or affixed to real property prior to the effective date of the renewal.

(d) Basis of Reporting. – A retailer who sells or derives gross receipts from a service contract must report those sales on an accrual basis of accounting, notwithstanding that the retailer reports tax on the cash basis for other sales at retail. The tax on the sales price of or the gross receipts derived from a service contract is due at the time of the retail sale. If the sales price of or the gross receipts derived from the service contract is financed in whole or in part, the financed amount of the sales price of or the gross receipts derived from the service contract included in each payment is exempt from sales tax if the amount is separately stated in the contract and on the billing statement or other documentation provided to the purchaser at the time of the sale.

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

**SECTION 6.1.(d)** Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-164.11A. Refund of tax paid on rescinded sale or cancellation of service.**

(a) Refund. –A taxpayer is allowed a refund of sales tax remitted on a rescinded sale or cancelled service. A sale is rescinded when the purchaser returns an item to the seller and receives a refund, in whole or in part, of the sales price paid, including a refund of the sales tax based on the taxable amount of the refund. A service is cancelled when the service is terminated and the purchaser receives a refund, in whole or in part, of the sales price paid, including a refund of the sales tax based on the taxable amount of the refund. A taxpayer entitled to a refund under this section may reduce taxable receipts by the taxable amount of the refund for the period in which the refund occurs or may request a refund of an overpayment as provided in G.S. 105-241.7 provided the tax has been refunded to the purchaser. The records of the taxpayer must clearly reflect and support the claim for refund for an overpayment of tax or adjustment to taxable receipts for the period in which the refund occurs.

(b) Service Contract. – When a service contract is canceled and a purchaser receives a refund, in whole or in part, of the sales price paid for the service contract the purchaser may receive a refund of the sales tax based on the taxable amount of the refund as provided in this subsection.

(1) Refund from retailer. – If the purchaser receives a refund on any portion of the sales price for a service contract purchased from the retailer required to remit the tax on the retail sale of the service contract, then the provisions of subsection (a) of this section apply.

(2) Refund from obligor. – If the purchaser receives a refund on any portion of the sales price for a service contract from the obligor under the service contract, and the obligor is a retailer engaged in business in this State, then the amount refunded by the obligor to the purchaser must include a refund of the sales tax on the taxable amount of the refund even if the contract was sold by a facilitator who as a retailer was required to collect and remit tax on the retail sale of the service contract.

(3) Refund application. – If the purchaser receives a refund on any portion of the sales price for a service contract from the obligor under the service contract, and the obligor is not a retailer engaged in business in this State, then the amount refunded by the obligor to the purchaser does not have to include the sales tax on the taxable amount of the refund. If the amount refunded by the obligor to the purchaser does not include the sales tax paid, then the purchaser may apply to the Department for a refund of the prorated amount of the paid based on the taxable amount of the service contract refunded to the purchaser by the obligor. The application for a refund by a purchaser must be made on a form prescribed by the Secretary, supported by documentation

from the obligor, and filed within 30 days after the purchaser receives a refund from the obligor. An application for a refund filed by the purchaser after the due date is barred. Taxes for which a refund is allowed directly to the purchaser is not an overpayment of tax and do not accrue interest as provided in G.S. 105-241.21."

**SECTION 6.1.(e)** G.S. 105-164.13(61) reads as rewritten:

"(61) A service contract for tangible personal property ~~that is provided for any of the following may be exempt as provided in G.S. 105-164.4I.~~

- a. ~~An item exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32).~~
- b. ~~A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.~~
- e. ~~An item purchased by a professional motorsports racing team for which the team may receive a sales tax refund under G.S. 105-164.14A(5)."~~

**SECTION 6.1.(f)** G.S. 105-164.13(62) reads as rewritten:

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

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

- ...
- (62) An item used to maintain or repair tangible personal property or a motor vehicle pursuant to a service contract if the purchaser of the contract is not charged for the item. This exemption does not apply an item used to maintain or repair tangible personal property pursuant to a service contract exempt from tax under G.S. 105-164.4I(b). For purposes of this exemption, the term "item" does not include a tool, equipment, supply, or similar tangible personal property used to complete the maintenance or repair and that is not deemed to be a component or repair part of the tangible personal property or motor vehicle for which a service contract is sold to a purchaser."

**SECTION 6.1.(g)** G.S. 105-187.3 reads as rewritten:

(a) ~~Amount Tax Base.~~ – The ~~rate of the use tax~~ imposed by this Article is applied to the sum of the three percent (3%) of the sum of the following:

- (1) ~~The retail value of a motor vehicle for which a certificate of title is issued-issued and any fee regulated by G.S. 20-101.1. The tax does not apply to the sales price of a service contract. The sales price of a service contract is subject to the sales tax imposed under Article 5 of this Chapter.~~
- (2) ~~Any fee regulated by G.S. 20-101.1.~~

(a1) Tax Rate. – The tax rate is three percent (3%). ~~The tax is payable as provided in G.S. 105-187.4.~~ The maximum tax is one thousand dollars (\$1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is one thousand five hundred dollars (\$1,500) for each certificate of title issued for a recreational vehicle that is not subject to the one thousand dollar (\$1,000) maximum tax. The tax is payable as provided in G.S. 105-187.4."

**SECTION 6.1.(h)** G.S. 105-467(b) reads as rewritten

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. A refund of an excessive or erroneous State sales tax collection allowed



under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be levied and imposed under this Article. The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen million three hundred thousand dollars (\$13,300,000).

..."

**SECTION 6.1.(i)** This Part becomes effective October 1, 2014.

## **PART VII: RETAILER-CONTRACTORS**

**SECTION 7.1.(a)** G.S. 105-164.3 reads as rewritten:

### **§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(5) Consumer. – A person who stores, uses, or otherwise consumes in this State tangible personal property, digital property, or a service purchased or received from a retailer or supplier either within or without this State.

...

(33a) Real Property Contractor. – A person who contracts to perform construction, reconstruction, installation, repair, or any other service with respect to real property and to furnish tangible personal property to be installed or applied to real property in connection with the contract and the labor to install or apply the tangible personal property that becomes part of real property. The term includes a general contractor, a subcontractor, or a builder for purposes of G.S. 105-164.4H.

...

(35) Retailer. – A person engaged in the business of any of the following:

a. Making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article.

b. Delivering, erecting, installing, or applying tangible personal property for use in this State, ~~regardless of whether the property is permanently affixed to real property or other tangible personal property.~~ State that does not become part of real property pursuant to the tax imposed under G.S. 105-164.4(a)(12).

c. Making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.

(35a) Retailer-contractor. – A person that acts as a retailer when it sells tangible personal property at retail and as a real property contractor when it performs real property contracts.

..."

SECTION 7.1.(b). G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(12) The general rate of tax applies to the sales price of tangible personal property sold to a real property contractor for use by the real property contractor in erecting structures, building on, or otherwise improving, altering, or repairing real property. These sales are taxed in accordance with G.S. 105-164.4H."

SECTION 7.1.(c). Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-164.4H. Real property contractor.**

(a) Applicability. – A real property contractor is the consumer of the tangible personal property that the real property contractor installs or applies for others and that becomes part of real property. Tax is due on the purchase price of the tangible personal property unless a statutory exemption in G.S. 105-164.13 or G.S. 105-164.13E applies.

(b) Retailer-contractor. – This section applies to a retailer-contractor when the retailer-contractor is acting as a real property contractor. A retailer-contractor that purchases tangible personal property to be installed or affixed to real property may make the purchases exempt from tax under a certificate of exemption. When the retailer-contractor withdraws tangible personal property from inventory to be installed or affixed to real property, use tax must be accrued and paid on the retailer-contractor's purchase price unless a statutory exemption in G.S. 105-164.13 or G.S. 105-164.13E applies. If a retailer-contractor subcontracts the installation, tax is payable by the subcontractor on the subcontractor's purchase of the tangible personal property that is installed or affixed to real property in fulfilling the contract. The retailer-contractor, the subcontractor, and the owner of the real property are jointly and severally liable for the tax. The liability of a retailer-contractor, a subcontractor, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

SECTION 7.2.(a) This act shall not be construed to affect the interpretation of any statute that is the subject of a State tax audit pending as of the effective date of this act or litigation that is a direct result of such audit.

SECTION 7.2.(b) A seller who collected and remitted sales or use tax in accordance with an interpretation of the law by the Secretary in the form of a rule, bulletin, or directive published before the effective date of this act is not liable to a purchaser for any overcollected sales or use tax that was collected in accordance with the rule, bulletin, or directive.

SECTION 7.3. This Part becomes effective January 1, 2015, and applies to sales on or after that date and contracts entered into on or after that date.

**PART VIII: OTHER SALES TAX CHANGES**

SECTION 8.1.(a) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...

(3) ~~A tax at the~~ The general rate applies to the gross receipts derived from the rental of an accommodation. These rentals are taxed in accordance with G.S. 105-164.4F. The tax does not apply to (i) a private residence or cottage that is rented for fewer than 15 days in a calendar year; (ii) an accommodation rented to the same person for a period of 90 or more continuous days; or (iii) an accommodation arranged or provided to a person

by a school, camp, or similar entity where a tuition or fee is charged to the person for enrollment in the school, camp, or similar entity.

Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.

A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2.

The following definitions apply in this subdivision:

- a. Accommodation. — A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.
- b. Facilitator. — A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.

..."

**SECTION 8.1.(b)** Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

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

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

- (1) Accommodation. — A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual.
- (2) Facilitator. — A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.
- (3) Rental agent. — The term includes a real estate broker, as defined in G.S. 93A-2.

(b) Tax. — The gross receipts derived from the rental of an accommodation are taxed at the general rate set in G.S. 105-164.4. Gross receipts derived from the rental of an

accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental.

(c) Facilitator Transactions. – A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed, and the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this section on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

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

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

- (1) A private residence, cottage, or similar accommodation that is rented for fewer than 15 days in a calendar year other than a private residence, cottage, or similar accommodation listed with a real estate broker or agent.
- (2) An accommodation supplied to the same person for a period of 90 or more continuous days.
- (3) An accommodation arranged or provided to a person by a school, camp, or similar entity where a tuition or fee is charged to the person for enrollment in the school, camp, or similar entity."

**SECTION 8.1.(c)** A retailer is not liable for an over-collection or under-collection of sales tax or occupancy tax if the retailer has made a good faith effort to comply with the law and collect the proper amount of tax and has, due to the change under this section, over-collected or under-collected the amount of sales tax or occupancy tax that is due. This subsection applies only to the period beginning June 14, 2012, and ending July 1, 2014.

**SECTION 8.1.(d)** This section becomes effective June 1, 2014, and applies to gross receipts derived from the rental of an accommodation that a person occupies or has the right to occupy on or after that date.

**SECTION 8.2.(a)** G.S. 105-164.14(b) and (c) read as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and ~~services, other than electricity, telecommunications service, and ancillary service,~~ services for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity through reimbursement to an authorized person of the entity for the purchase of tangible personal property and ~~services, other than electricity, telecommunications service, and ancillary service,~~ services for use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct

purchases by the nonprofit entity. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed an entity under this subsection for a fiscal year may not exceed thirty-one million seven hundred thousand dollars (\$31,700,000).

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

...

(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and ~~services, other than electricity, telecommunications service, and ancillary service.~~ services. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

..."

**SECTION 8.2.(b)** G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen million three hundred thousand dollars (\$13,300,000).

Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and ~~services, other than electricity, telecommunications service, and ancillary service.~~ services. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. The refund allowed under this section does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund is due in the same time and

manner as provided in G.S. ~~105-164.14~~. 105-164.14(c). Refunds applied for more than three years after the due date are barred."

**SECTION 8.2.(c)** This section becomes effective July 1, 2014, and applies to purchases occurring on or after that date.

**SECTION 8.3.(a)** G.S. 105-164.13(30) is repealed.

**SECTION 8.3.(b)** G.S. 105-164.13(50) reads as rewritten:

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

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

...

(50) Fifty percent (50%) of the sales price of tangible personal property sold through a coin-operated vending machine, other than ~~tobacco~~ tobacco and newspapers."

**SECTION 8.3.(c)** This section becomes effective October 1, 2014, and applies to sales made on or after that date.

**SECTION 8.4.(a)** G.S. 105-164.13 is amended by adding a new subdivision to read:

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

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

...

(64) Fifty percent (50%) of the sales prices of a modular home or a manufactured home including all accessories attached when delivered to the purchaser."

**SECTION 8.4.(b)** This section becomes effective July 1, 2014, and applies to sales made on or after that date.

## **PART IX: EXCISE TAX CHANGES**

**SECTION 9.1.(a)** G.S. 105-113.13(b) reads as rewritten:

"(b) The Secretary may require a distributor to furnish a bond in an amount that adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A bond ~~shall be~~ must be conditioned on compliance with this Part, ~~shall be~~ payable to the State, and ~~shall be~~ in the form required by the Secretary. The Secretary ~~shall~~ must set the bond amount based on the anticipated tax liability of the distributor. The Secretary ~~shall~~ should periodically review the sufficiency of bonds required of the distributor and ~~shall~~ increase the required bond amount of a required bond if the bond if the amount no longer covers the anticipated tax liability of the distributor. ~~The Secretary shall~~ distributor and decrease the amount ~~of a required bond if the Secretary finds that a lower bond amount will protect the State adequately from loss. For~~

For purposes of this section, a bond may also include an irrevocable letter of credit; a distributor may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

**SECTION 9.1.(b)** G.S. 105-113.38 reads as rewritten:

**"§ 105-113.38. Bond or irrevocable letter of credit.**

The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due under this Part. A bond ~~shall~~ must be conditioned on compliance with this Part, ~~shall be~~ payable to

the State, and ~~shall be~~ in the form required by the Secretary. ~~The Secretary shall proportion a~~  
~~bond amount must be proportionate~~ to the anticipated tax liability of the wholesale dealer or  
retail dealer. The Secretary ~~shall should~~ periodically review the sufficiency of bonds required  
of dealers, and ~~shall~~ increase the amount of a required bond when the amount of the bond  
furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer.  
~~The Secretary shall dealer and decrease the amount of a required bond when the Secretary~~  
~~determines that a smaller bond amount will adequately protect the State from loss. For~~

For purposes of this section, a bond may also include an irrevocable letter of credit. a  
wholesale dealer or a retail dealer may substitute an irrevocable letter of credit for the secured  
bond required by this section. The letter of credit must be issued by a commercial bank  
acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must  
be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in  
the amounts stipulated in this section."

**SECTION 9.1.(c)** G.S. 105-113.86 reads as rewritten:

**"§ 105-113.86. Bonds. Bond or irrevocable letter of credit.**

(a) Wholesalers and Importers. – A wholesaler or importer ~~shall furnish~~ must file with  
the Secretary a bond in an amount of not less than five thousand dollars (\$5,000) nor more than  
fifty thousand dollars (\$50,000). The bond ~~shall~~ must be conditioned on compliance with this  
Article, ~~shall be~~ payable to the State, ~~shall be~~ in a form acceptable to the Secretary, and ~~shall be~~  
secured by a corporate surety or by a pledge of obligations of the federal government, the State,  
or a political subdivision of the State. ~~surety. The Secretary shall proportion the bond amount to~~  
~~the anticipated tax liability of the wholesaler or importer. The amount of the bond must be~~  
proportionate to the anticipated tax liability of the wholesaler or importer. The Secretary shall  
must periodically review the sufficiency of bonds furnished by wholesalers and importers, and  
~~shall~~ increase the amount of a bond required of a wholesaler or importer when the amount of  
the bond furnished no longer covers the wholesaler's or importer's anticipated tax liability.

...

(c) Letter of Credit. – For purposes of this section, a wholesaler or importer or a  
nonresident vendor may substitute an irrevocable letter of credit for the secured bond required  
by this section. The letter of credit must be issued by a commercial bank acceptable to the  
Secretary and available to the State as a beneficiary. The letter of credit must be in a form  
acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts  
stipulated in this section."

**SECTION 9.1.(d)** G.S. 105-113.39(b) reads as rewritten:

"(b) Refund. – A wholesale dealer or retail dealer who is primarily liable under  
G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or  
otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco  
products to the manufacturer and apply to the Secretary for refund of the tax. The application  
~~shall~~ must be in the form prescribed by the Secretary and ~~shall be~~ accompanied by a written  
certificate signed under penalty of perjury or an affidavit from the manufacturer listing the  
tobacco products returned to the manufacturer by the applicant. The Secretary shall refund the  
tax paid, less the discount allowed, on the listed products."

**SECTION 9.1.(e)** G.S. 105-259(b) is amended by adding a new subdivision to  
read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has  
access to tax information in the course of service to or employment by the State may not  
disclose the information to any other person except as provided in this subsection. Standards  
used or to be used for the selection of returns for examination and data used or to be used for  
determining the standards may not be disclosed for any purpose. All other tax information may  
be disclosed only if the disclosure is made for one of the following purposes:

...

(46) To furnish to a person who provides the State with a bond or irrevocable letter of credit on behalf of a taxpayer the information necessary for the Department to collect on the bond or letter of credit in the case of noncompliance with the tax laws by the taxpayer covered by the bond or letter of credit."

**SECTION 9.1.(f)** G.S. 105-260.1 reads as rewritten:

**"§ 105-260.1. Delegation of authority to hold hearings.**

The Secretary of Revenue may delegate to a Deputy or Assistant Secretary of Revenue the authority to hold any a hearing required or allowed under this Chapter."

**SECTION 9.2.(a)** The heading to Article 36B of Chapter 105 of the General Statutes reads as rewritten:

"Article 36B.

Tax on Carriers Using Fuel Purchased Outside State Motor Carriers."

**SECTION 9.2.(b)** G.S. 105-449.37 reads as rewritten:

**"§ 105-449.37. Definitions; tax liability; application.**

(a) Definitions. – The following definitions apply in this Article:

(1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the International Fuel Tax Association, Inc., as amended as of ~~June 1, 2010~~ July 1, 2013.

(2) Motor carrier. – A person who operates or causes to be operated on any highway in this State a motor vehicle that is a qualified motor vehicle. The term does not include the United States, a state, or a political subdivision of a state.

(3) Motor vehicle. – Defined in G.S. 20-4.01.

(4) Operations. – The movement of a qualified motor vehicle by a motor carrier, whether loaded or empty and whether or not operated for compensation.

(5) Person. – Defined in G.S. 105-228.90.

(6) Qualified motor vehicle. – Defined in the International Fuel Tax Agreement.

(7) Secretary. – Defined in G.S. 105-228.90.

(b) Liability. – A motor carrier who operates on one or more days of a reporting period is liable for the tax imposed by this Article for that reporting period and is entitled to the credits allowed for that reporting period.

(c) Application. – A motor carrier who operates a qualified motor vehicle in this State must register the vehicle as provided in this Article and obtain the appropriate license and decals for the vehicle. The Article applies to both an interstate motor carrier subject to the International Fuel Tax Agreement and to an intrastate motor carrier."

**SECTION 9.2.(c)** G.S. 105-449.47(a) reads as rewritten:

"(a) Requirement. – A motor carrier ~~that is subject to the International Fuel Tax Agreement~~ may not operate or cause to be operated in this State a qualified motor vehicle unless both the motor carrier and at least one qualified motor vehicle are registered as provided in this subsection. This subsection applies to a motor carrier that operates a recreational vehicle that is considered a qualified motor vehicle. A motor carrier that is subject to the International Fuel Tax Agreement must register with the motor carrier's base state jurisdiction. A motor carrier that is not subject to the International Fuel Tax Agreement may not operate or cause to be operated in this State a qualified motor vehicle unless both the motor carrier and at least one qualified motor vehicle are registered must register with the Secretary for purposes of the tax imposed by this Article. This subsection applies to a motor carrier that operates a recreational vehicle that is considered a qualified motor vehicle."

**SECTION 9.3.(a)** G.S. 105-449.81 reads as rewritten:

**"§ 105-449.81. Excise tax on motor fuel.**

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



1 ...

2 (3b) Fuel grade ethanol or biodiesel fuel if the fuel that meets any meets at least  
3 one of the following descriptions:

- 4 a. Is produced in this State and is removed from the storage facility at  
5 the production location.  
6 b. Is imported to this State outside the terminal transfer system.  
7 c. Repealed by Session Laws 2009-445, s. 34(a), effective January 1,  
8 2010.

9 ..."

10 **SECTION 9.3.(b)** G.S. 105-449.83A reads as rewritten:

11 **"§ 105-449.83A. Liability for tax on fuel grade ~~ethanol~~ ethanol and biodiesel.**

12 The excise tax imposed by G.S. 105-449.81(3b) on fuel grade ethanol is payable by the  
13 refiner or fuel alcohol provider. The excise tax imposed by G.S. 105-449.81(3b) on biodiesel is  
14 payable by the refiner or the biodiesel provider."

15 **SECTION 9.3.(c)** This section becomes effective October 1, 2014.

16 **SECTION 9.4.(a)** G.S. 105-449.52(b) reads as rewritten:

17 **"§ 105-449.52. Civil penalties applicable to motor carriers.**

18 (a) Penalty. – A motor carrier who does any of the ~~following acts~~ listed in this  
19 subsection is subject to a civil ~~penalty~~ penalty. The Secretary may reduce or waive the penalty  
20 as provided under G.S. 105-449.119.

- 21 (1) Operates in this State or causes to be operated in this State a qualified motor  
22 vehicle that either fails to carry the registration card required by this Article  
23 or fails to display a decal in accordance with this Article. The amount of the  
24 penalty is one hundred dollars (\$100.00).  
25 (2) Is unable to account for a decal the Secretary issues the motor carrier, as  
26 required by G.S. 105-449.47. The amount of the penalty is one hundred  
27 dollars (\$100.00) for each decal for which the carrier is unable to account.  
28 (3) Displays a decal on a qualified motor vehicle operated by a motor carrier  
29 that was not issued to the carrier by the Secretary under G.S. 105-449.47.  
30 The amount of the penalty is one thousand dollars (\$1,000) for each decal  
31 unlawfully obtained. Both the licensed motor carrier to whom the Secretary  
32 issued the decal and the motor carrier displaying the unlawfully obtained  
33 decal are jointly and severally liable for the penalty under this subdivision.

34 (a1) Payment. – A penalty imposed under this section is payable to the agency that  
35 assessed the penalty. When a qualified motor vehicle is found to be operating without a  
36 registration card or a decal or with a decal the Secretary did not issue for the vehicle, the  
37 qualified motor vehicle may not be driven for a purpose other than to park it until the penalty  
38 imposed under this section is paid unless the officer that imposes the penalty determines that  
39 operating it will not jeopardize collection of the penalty.

40 (b) ~~Review. – The procedure set out in G.S. 105-449.119 for reviewing a penalty~~  
41 ~~imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this~~  
42 ~~section."~~

43 **SECTION 9.4.(b)** G.S. 105-449.119 reads as rewritten:

44 **"§ 105-449.119. Review of civil penalty assessment.**

45 A person who denies liability for a penalty imposed under this Part ~~must pay the penalty~~  
46 ~~and file a request for a Departmental review of the penalty. The request must be filed within the~~  
47 ~~time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment.~~  
48 may request the Secretary to waive the penalty. The procedures in Article 9 of this Chapter for  
49 review of a proposed assessment apply to the review of the penalty. The date the penalty was  
50 imposed is considered the date the notice of proposed assessment was delivered to the taxpayer.  
51 The Secretary may reduce or waive a penalty as provided in Article 9 of this Chapter."

**SECTION 9.5.(a)** G.S. 105-449.115(b) reads as rewritten:

"(b) Content. – A shipping document ~~issued by~~ is a permanent record that must contain the following information and any other information required by the Secretary:

- (1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received.
- (1a) The type of motor fuel loaded.
- (2) The date the motor fuel was loaded.
- (3) The gross gallons loaded if the motor fuel is loaded onto a transport truck, and the gross pounds loaded if the motor fuel is loaded onto a railroad tank car.
- (3a) The motor fuel transporter for the motor fuel.
- (4) The destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent.
- (5) If the document is issued by a refiner or a terminal operator, the document must be machine printed. If the motor fuel is loaded onto a transport truck, the document must contain the following information:
  - a. The net gallons loaded.
  - b. A tax responsibility statement indicating the name of the supplier that is responsible for the tax due on the motor fuel."

**SECTION 9.5.(b)** This section becomes effective October 1, 2014.

**SECTION 9.6.** Except as otherwise provided, this Part is effective when it becomes law.

## **PART X: TAX LAW COMPLIANCE CHANGES**

**SECTION 10.1.(a)** G.S. 18B-900 reads as rewritten:

**"§ 18B-900. Qualifications for permit.**

(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person ~~shall~~ must satisfy all of the following requirements:

- (1) Be at least 21 years old, unless the person is a manager of a business selling only malt beverages and unfortified wine, in which case the person shall be at least 19 years ~~old~~ old.
- (2) Be a resident of North Carolina unless:
  - a. He is an officer, director or stockholder of a corporate applicant or permittee and is not a manager or otherwise responsible for the day-to-day operation of the business; or
  - b. He has executed a power of attorney designating a qualified resident of this State to serve as attorney in fact for the purposes of receiving service of process and managing the business for which permits are sought; or
  - c. He is applying for a nonresident malt beverage vendor permit, a nonresident wine vendor permit, or a vendor representative ~~permit~~ permit.
- (3) Not have been convicted of a felony within three years, and, if convicted of a felony before then, ~~shall have~~ has had his citizenship ~~restored~~ restored.
- (4) Not have been convicted of an alcoholic beverage offense within two ~~years~~ years.
- (5) Not have been convicted of a misdemeanor controlled substance offense within two ~~years~~ and years.
- (6) Not have had an alcoholic beverage permit revoked within three years, except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1).

(7) Not have, whether as an individual or as an officer, director, shareholder or manager of a corporate permittee, an unsatisfied outstanding final judgment that was entered against him in an action under Article 1A of this Chapter.

(8) Be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties that are collectible under G.S. 105-241.22. This subdivision does not apply to the following ABC permits:

a. Special occasion permit under G.S. 18B-1001(8).

b. Limited special occasion permit under G.S. 18B-1001(9).

c. Special one-time permit under G.S. 18B-1002.

d. Salesman permit under G.S. 18B-1111.

To avoid undue hardship, however, the Commission may decline to take action under G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or (5).

...  
(f) Procedure to Confirm State Tax Compliance. – Upon request of the Commission, the Department of Revenue must provide information to the Commission to confirm a person's compliance with subdivision (a)(8) of this section. If the Department of Revenue notifies the Commission that a person is not in compliance, then the Commission may not issue or renew the person's permit until the Commission receives notice from the Department of Revenue that the person is in compliance. The requirement to pay all taxes, interest, and penalties may be satisfied by an operative agreement under G.S. 105-237 covering any amounts that are collectible under G.S. 105-241.22. Chapter 150B of the General Statutes does not apply to a Commission action on issuance, suspension, or revocation of an ABC permit under subdivision (a)(8) of this section."

**SECTION 10.1.(b)** G.S. 18B-906(a) reads as rewritten:

"(a) Act Applies. – An ABC permit is a "license" within the meaning of G.S. 150B-2, and, except for revocation pursuant to ~~G.S. 18B-904(e)(3)~~, G.S. 18B-904(e)(3) or for a confirmation pursuant to G.S. 18B-900(a)(8), a Commission action on issuance, suspension, or revocation of an ABC permit, other than a temporary permit issued under G.S. 18B-905, is a "contested case" subject to the provisions of Chapter 150B except as provided in this section."

**SECTION 10.1.(c)** G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...  
(46) To provide the Alcoholic Beverage Control Commission the information required under G.S. 18B-900."

**SECTION 10.1.(d)** G.S. 105-243.1(e) reads as rewritten:

"(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department and the Office of State Budget and Management must account for all expenditures using accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts

from costs allocable to other purposes and must demonstrate that none of the fee proceeds are used for any purpose other than collecting overdue tax debts.

The Department may apply the fee proceeds for the following purposes:

- (1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.
- (2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.
- (3) To pay for taxpayer locator services, not to exceed ~~one hundred fifty thousand dollars (\$150,000)~~ five hundred thousand dollars (\$500,000) a year.
- (4) To pay for postage or other delivery charges for correspondence directly and primarily relating to collecting overdue tax debts, not to exceed five hundred thousand dollars (\$500,000) a year.
- (5) To pay for operating expenses for Project Collection Tax and the Taxpayer Assistance Call Center.
- (6) To pay for expenses of the Examination and Collection Division directly and primarily relating to collecting overdue tax debts."

**SECTION 10.1.(e)** Subsections (a), (b), and (c) of Section 10.1 become effective May 1, 2015. The remainder of this Part is effective when it becomes law.

## **PART XI: PROPERTY TAX CHANGES**

**SECTION 11.1.(a)** G.S. 105-333 reads as rewritten:

### **"§ 105-333. Definitions.**

The following definitions apply in this Article unless the context requires a different meaning:

...

- (9a) Mobile telecommunications company. – A company providing a mobile telecommunications service as defined in G.S. 105-164.3.

...

- (14) Public service company. – A railroad company, a pipeline company, a gas company, an electric power company, an electric membership corporation, a telephone company, ~~a telegraph company,~~ a bus line company, an airline company, ~~or a motor freight carrier company.~~ company, a mobile telecommunications company, or a tower aggregator company. The term also includes any company performing a public service that is regulated by the United States Department of Energy, the United States Department of Transportation, the Federal Communications Commission, the Federal Aviation Agency, or the North Carolina Utilities Commission, except that the term does not include a water company, ~~providers of mobile telecommunications service as defined in G.S. 105-164.3,~~ a cable television company, or a radio or television broadcasting company.

...

- (17a) Tangible personal property of a mobile telecommunications company. – All tangible personal property located in this State that is owned by a mobile telecommunications company or is leased to and capitalized on the books of a mobile telecommunications company in accordance with generally accepted accounting principles, including, cellular towers, cellular equipment shelters, and site improvements at cellular tower locations. The term does not include FCC licenses or authorizations or other intangible personal property.

(17b) Tangible personal property of a tower aggregator company. – All tangible personal property located in this State that is owned by a tower aggregator company or is leased to and capitalized on the books of a tower aggregator company in accordance with generally accepted accounting principles, including cellular towers, cellular equipment shelters, and site improvements at cellular tower locations.

(18) ~~Telegraph company. – A company engaged in the business of transmitting telegraph messages to, from, within, or through the State.~~

(19) Telephone company. – A company engaged in the business of transmitting telephone messages and conversations to, from, within, or through this State, except that the term does not include a mobile telecommunications company.

...  
(22) Tower aggregator company. – A company that provides tower infrastructure for broadcasting and mobile telephony and that leases space on the tower infrastructure to mobile telecommunications companies."

**SECTION 11.1.(b)** G.S. 105-335 reads as rewritten:

**"§ 105-335. Appraisal of property of public service companies.**

(a) Duty to Appraise. ~~—In accordance with the provisions of subsection (b), below, the The Department of Revenue shall appraise for taxation the true value of each public service company in accordance with subsection (b) of this section except for a public service company listed in this subsection. The Department shall appraise certain specified properties of the following public service companies in accordance with subsection (c) of this section, (other than bus line, motor freight carrier, and airline companies) as a system (both inside and outside this State). Certain specified properties of bus line, motor freight carrier, and airline companies shall be appraised by the Department in accordance with the provisions of subsection (c), below, and all other properties of such companies shall be listed, appraised, and assessed in the manner prescribed by this Subchapter for the properties of taxpayers other than public service companies.~~

(1) Bus line.

(2) Motor freight carrier.

(3) Airline.

(4) Mobile telecommunications company.

(5) Tower aggregator company.

(b) Property of Public Service Companies Other Than Those Noted in Subsection (c). –

(1) System Property. – Each year, as of January 1, the Department of Revenue shall appraise at its true value (as defined in G.S. 105-283) the system property used by each public service company both inside and outside this State. Property leased by a public service company shall be included in appraising the value of its system property if necessary to ascertain the true value of the company's system property.

(2) Nonsystem Personal Property. – Each year as of January 1, the Department shall appraise at its true value (as defined in G.S. 105-283) each public service company's nonsystem tangible personal property subject to taxation in this State.

(3) Nonsystem Real Property. – In accordance with the county in which the public service company's nonsystem real property is located and the schedules set out in G.S. 105-286 and 105-287, the Department of Revenue shall appraise at its true value (as defined in G.S. 105-283) each public service company's nonsystem real property subject to taxation in this State.

(c) Property of Bus Line, Motor Freight Carrier, and ~~Airline~~ Airline, Mobile Telecommunications, and Tower Aggregator Companies. –

(1) Bus Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value (~~as defined in G.S. 105-283~~) the rolling stock owned or leased by or operated under the control of each bus line ~~company, which bus line company~~ that is domiciled in this State or ~~which that~~ is regularly engaged in business in this State.

(2) Motor Freight Carrier Company Rolling Stock. – Each year as of January 1, the Department shall appraise at its true value (~~as defined in G.S. 105-283~~) the rolling stock owned by a motor freight carrier company or leased by a motor freight carrier company and operated by its employees ~~which motor freight carrier company that~~ is domiciled in this State or ~~that~~ is regularly engaged in business in this State at a terminal owned or leased by the carrier.

(3) Flight Equipment. – Each year, as of January 1, the Department shall appraise at its true value (~~as defined in G.S. 105-283~~) the flight equipment owned or leased by or operated under the control of each airline company that is domiciled in the State or that is regularly engaged in business at some airport in this State.

(4) Property of Mobile Telecommunications Company. – Each year, as of January 1, the Department shall appraise at its true value the tangible personal property of a mobile telecommunications company as provided in G.S. 105-336(c) and (d).

(5) Property of Tower Aggregator Company. – Each year, as of January 1, the Department shall appraise at its true value the tangible personal property of a tower aggregator company as provided in G.S. 105-336(d)."

**SECTION 11.1.(c)** G.S. 105-336 reads as rewritten:

**"§ 105-336. Methods of appraising certain properties of public service companies.**

(a) Appraising System Property of Public Service Companies Other Than Those Noted in ~~Subsection (b).~~ Subsections (b), (c), and (d). – The Department of Revenue shall give consideration to the factors listed in this subsection in ~~In~~ determining the true value of each public service company as a system, other (~~other than one covered by subsection (b), (c), or (d) of this subsection.~~ below) ~~as a system the Department of Revenue shall give consideration to the following.~~ The factors are:

(1) The market value of the company's capital stock and debt, taking into account the influence of any nonsystem property.

(2) The book value of the company's system property as reflected in the books of account kept under the regulations of the appropriate federal or State regulatory agency and what it would cost to replace or reproduce the system property, less a reasonable allowance for depreciation.

(3) The gross receipts and operating income of the company.

(4) Any other factor or information that in the judgment of the Department has a bearing on the true value of the company's system property.

(b) Appraising Rolling Stock and Flight Equipment. – In determining the true value of the rolling stock of bus line and motor freight carrier companies and the flight equipment of airline companies, the Department of Revenue shall consider the book value of the property as reflected in the books of account kept under the regulations of the appropriate federal or State regulatory agency and what it would cost to replace or reproduce the property in its existing condition.

(c) Appraising Tangible Personal Property of Mobile Telecommunications Companies. – In determining the true value of the tangible personal property of a mobile telecommunications company (excluding towers), the Department of Revenue shall consider

the original cost of the property as reflected in the books of account maintained by the company in accordance with generally accepted accounting principles. The Department of Revenue may also consider what it would cost to replace or reproduce the property. In either case, an appropriate deduction shall be made for all forms of depreciation including physical deterioration, functional obsolescence, and external or economic obsolescence.

(d) Appraising Tangible Personal Property of Tower Aggregator Companies and Certain Property of Mobile Telecommunications Companies. – In determining the true value of the tangible personal property of a tower aggregator company (excluding towers), the Department of Revenue shall consider the original cost of the property as reflected in the books of account maintained by the company in accordance with generally accepted accounting principles and may also consider what it would cost to replace or reproduce the property. In determining the true value of a tower of a tower aggregator company or a mobile telecommunications company, the Department of Revenue shall consider what it would cost to replace or reproduce the tower, based on tower height and type, as determined by a nationally recognized cost service commonly utilized by appraisers. For all property, an appropriate deduction shall be made for all forms of depreciation including physical deterioration, functional obsolescence, and external or economic obsolescence."

**SECTION 11.1.(d)** G.S. 105-337 reads as rewritten:

**"§ 105-337. Apportionment of taxable values to this State.**

With respect to any public service company operating both inside and outside this State, it shall be the duty of State, other than a mobile telecommunications company or a tower aggregator company, the Department of Revenue to shall apportion for taxation in this State a fair and reasonable share of the value of the company as a system or its rolling stock or flight equipment as appraised under the provisions of G.S. 105-336. Thus, when the Department has determined true value in accordance with the provisions of G.S. 105-336(a) or G.S. 105-336(b), it shall ascertain the portion of the total value subject to taxation in this State by applying property, business, and mileage factors thereto in accordance with the ratio that the company's property, business, or mileage in this State bears to its total property, business, or mileage. In its discretion, the Department may use one or more of the factors listed in the preceding sentence in order to achieve a fair and accurate result in the apportionment of the value of the property of any public service company. ~~As used in this section,~~ The following definitions apply in this section:

- (1) ~~The term "business factor" means data~~ Business factor. – Data that reflect the use of the company's property, such as gross revenue, net income, tons of freight carried, revenue ton miles, passenger miles, car miles, ground hours, and comparable data.
- (2) ~~The term "mileage factor" means factual~~ Mileage factor. – Factual information as to the linear miles of the company's track, wire, lines, pipes, routes, and similar operational routes and factual information as to the miles traveled by the company's rolling stock.
- (3) ~~The term "property factor" means investment~~ Property factor. – Investment in property; it may be either gross or net investment or any other reasonable figure reflecting the company's investment in property."

**SECTION 11.1.(e)** G.S. 105-338 reads as rewritten:

**"§ 105-338. Allocation of appraised valuation of system public service property among local taxing units.**

(a) State Board's Duty. – For purposes of taxation by local taxing units in this State, the Department of Revenue shall allocate the valuations of public service company property among the local taxing units in accordance with the provisions of this section.

(b) System Valuation of Companies Other Than Those Noted in Subsection (c). –

...

- 1 (3) System Property of Other Companies Appraised by the Department of  
2 Revenue. –
- 3 a. The provisions of this subdivision ~~(b)(3) shall~~ govern the allocation  
4 of the property of all companies appraised by the Department of  
5 Revenue except railroad, telephone, bus line, motor freight carrier,  
6 ~~and—airline companies, mobile telecommunications~~  
7 ~~companies, and tower aggregator companies.~~
- 8 b. The appraised valuation of the system property of such a company  
9 ~~shall be~~ is allocated for taxation to the local taxing units in which the  
10 company operates in the proportion that the original cost of the  
11 taxable system property in the local taxing unit on January 1 bears to  
12 the original cost of all the taxable system property in this State. If in  
13 any local taxing unit the company owns system property acquired  
14 prior to January 1, 1972, for which the original cost cannot be  
15 definitely ascertained, the company shall make a reasonable estimate  
16 of the original cost of that property ~~shall be made by the company,~~  
17 property, and the Department shall use this estimate ~~shall be used by~~  
18 ~~the Department of Revenue~~ for allocation purposes as if it were the  
19 actual original cost of the property.
- 20 (c) Certain Property of Bus Line, Motor Freight Carrier, and Airline, and  
21 Mobile Telecommunications Companies. –
- 22 (1) The appraised valuation of a bus line company's rolling stock ~~shall be~~ is  
23 allocated for taxation to each local taxing unit according to the ratio of the  
24 company's scheduled miles during the calendar year preceding January 1 in  
25 each ~~such~~ unit to the company's total scheduled miles in this State for the  
26 same period. In no event, however, shall the State Board make an allocation  
27 to a taxing unit if, when computed, the valuation for that taxing unit amounts  
28 to less than five hundred dollars (\$500.00).
- 29 (2) The appraised valuation of the rolling stock (other than locally assigned  
30 rolling stock) owned or leased by a motor freight carrier company ~~shall be~~ is  
31 allocated for taxation to each local taxing unit in which the company has a  
32 terminal according to the ratio of the tons of freight handled in the calendar  
33 year preceding January 1 at the company's terminals within the taxing unit to  
34 the total tons of freight handled by the company in this State in the same  
35 period. If a North Carolina interstate motor freight carrier company has no  
36 terminal outside this State, but has been required to pay ad valorem tax to  
37 one or more taxing units outside this State, ~~there shall be allowed a reduction~~  
38 is allowed in the North Carolina valuation measured by the ratio of the  
39 rolling stock subject to ad valorem taxation outside the State to all of the  
40 carrier's rolling stock.
- 41 (3) The appraised valuation of an airline company's flight equipment ~~shall be~~ is  
42 allocated for taxation to each local taxing unit in which an airport used by  
43 the company is situated according to the ratio obtained by averaging the  
44 following two ratios: the ratio of the company's ground hours in the taxing  
45 unit in the year preceding January 1 to the company's ground hours in the  
46 State in the same period, and the ratio of the company's gross revenue in the  
47 taxing unit in the year preceding January 1 to the company's gross revenue in  
48 the State in the same period.
- 49 (4) The appraised valuation of the tangible personal property of a mobile  
50 telecommunications company (excluding towers) that is appraised in  
51 accordance with the provisions of G.S. 105-336(c) is allocated among the



1           local taxing units in which the property of the company is situated on  
2           January 1 in the proportion that the original cost of the property in the taxing  
3           unit bears to the original cost of all such property in this State."

4           **SECTION 11.1.(f)** G.S. 105-339 reads as rewritten:

5       **"§ 105-339. Certification of appraised valuations of nonsystem property and locally**  
6       **assigned rolling ~~stock-stock~~, tangible personal property of tower aggregator**  
7       **companies, and certain tangible personal property of mobile**  
8       **telecommunications companies.**

9           Having determined the appraised valuations of the nonsystem properties of public service  
10          companies in accordance with subdivisions (b)(2) and (b)(3) of G.S. 105-335 and the appraised  
11          valuations of locally assigned rolling stock in accordance with subdivision (c)(1) of  
12          G.S. 105-335, the appraised valuations of the tangible personal property of tower aggregator  
13          companies in accordance with G.S. 105-336(d) and the appraised valuations of towers of  
14          mobile telecommunications companies in accordance with G.S. 105-336(d), the Department of  
15          Revenue shall assign those appraised valuations to the taxing units in which such properties are  
16          situated by certifying the valuations to the appropriate counties and municipalities. Each local  
17          taxing unit receiving such certified valuations shall assess them at the figures certified and shall  
18          tax the assessed valuations at the rate of tax levied against other property subject to taxation  
19          therein."

20               **SECTION 11.1.(g)** Article 23 of Chapter 105 of the General Statutes is amended  
21          by adding a new section to read:

22       **"§105-339A. Certification of appraised valuations of mobile telecommunications**  
23       **companies.**

24           Having determined the appraised valuations of the tangible personal property of mobile  
25          telecommunications companies (excluding towers) in accordance with subdivision (c) of  
26          G.S. 105-335 and having allocated the valuations to the local taxing units in accordance with  
27          subdivision (c)(4) of G.S. 105-338, the Department of Revenue shall assign each local taxing  
28          unit's appraised valuations by certifying the valuations to the appropriate counties and  
29          municipalities. Each local taxing unit receiving these certified valuations shall assess them at  
30          the figures certified and shall tax the assessed valuations at the rate of tax levied against other  
31          property subject to taxation therein."

32               **SECTION 11.1.(h)** This Part is effective for taxes imposed for taxable years  
33          beginning on or after July 1, 2015.

## 34       **PART XII: PRIVILEGE LICENSE TAX CHANGES**

35               **SECTION 12.1.(a)** G.S. 160A-211(a) is reenacted as amended by Section 58(d) of  
36          S.L. 2013-414.

37               **SECTION 12.1.(b)** This section is effective when the act becomes law.

38               **SECTION 12.2.(a)** G.S. 160A-211 is repealed.

39               **SECTION 12.2.(b)** Article 9 of Chapter 160A is amended by adding a new section  
40          to read:

41       **"§160A-211.2. Local business tax.**

42           (a)   Levy and Scope. – A city may levy an annual tax on each business operating within  
43          the city. The tax applies to each business location and does not apply to each individual  
44          employed by or affiliated with that business. Except as provided in G.S. 160A-211.1 for  
45          low-level radioactive and hazardous waste facilities, the rate of tax may not exceed one  
46          hundred dollars (\$100.00).

47           (b)   Prohibition. – A city may not impose a license, franchise, privilege, or business tax  
48          on a business engaged in any of the activities listed in this subsection. These businesses are  
49          subject to sales tax at the combined general rate for which the city receives a share of the tax  
50          revenue or they are subject to the local sales tax:  
51

(1) Supplying piped natural gas.

(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

(3) Providing video programming taxed under G.S. 105-164.4(a)(6).

(4) Providing electricity.

(c) Administration. – If a city levies a tax under this section, a business must pay the tax before it begins to operate within the city. The tax is due by July 1 of each year. The full amount of the tax applies to a business that begins to operate at any time during the fiscal year. If a business is discontinued during the fiscal year, the business is not entitled to a refund.

(d) Penalties and Collection. – The penalties in G.S. 105-236 apply to this section. A city may collect a tax due in any manner allowed under this Article.

(e) Definitions. – The following definitions apply in this section:

(1) Business. – A retailer, wholesale merchant, service provider, manufacturer, nonprofit other than a 501(c)(3), or franchise, whether it is a sole proprietorship, partnership, LLC, or corporation; whether it is home-based or at another location, whether it is full-time, part-time, or seasonal, and regardless of size.

(2) Location. – A uniquely identifiable geographic site or place from which one or more business units wholly or partly operates on a permanent or temporary basis."

**SECTION 12.2.(c)** G.S. 105-41(h), 105-83(e), 105-88(e), 105-109(e), and G.S. 106-65.40 are repealed.

**SECTION 12.2.(d)** G.S. 105-113.3(a) reads as rewritten:

"(a) Scope. – The taxes imposed by this Article shall be collected only once on the same tobacco product. ~~Except as permitted by Article 2 of this Chapter, a city or county may not levy a privilege license tax on the sale of tobacco products.~~"

**SECTION 12.2.(e)** G.S. 105-102.3 reads as rewritten:

**"§ 105-102.3. Banks.**

~~There~~ An annual privilege tax is imposed upon every bank or banking association, including each national banking association, that is operating in this State as a commercial bank, an industrial bank, a savings bank created other than under Chapter 54B or 54C of the General Statutes or the Home Owners' Loan Act of 1933 (12 U.S.C. §§ 1461-68), a trust company, or any combination of such facilities or services, and whether ~~such the~~ bank or banking association, hereinafter ~~to be~~ referred to as a bank or banks, is organized, under the laws of the United States or the laws of North Carolina, in the corporate form or in some other form of business ~~organization, an annual privilege tax, organization.~~ A report and the privilege tax are due by the first day of July of each year on forms provided by the Secretary. The tax rate is thirty dollars (\$30.00) for each one million dollars (\$1,000,000) or fractional part thereof of total assets held as provided in this section. The assets upon which the tax is levied ~~shall be~~ are determined by averaging the total assets shown in the four quarterly call reports of condition (consolidating domestic subsidiaries) for the preceding calendar year as required by bank regulatory authorities. If a bank has been in operation less than a calendar year, then the assets upon which the tax is levied ~~shall be~~ are determined by multiplying the average of the total assets by a fraction, the denominator of which is 365 and the numerator of which is the number of days of operation. If a bank operates an international banking facility, as defined in G.S. 105-130.5(b)(13), the assets upon which the tax is levied ~~shall be~~ are reduced by the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States, as computed pursuant to G.S. 105-130.5(b)(13)c. For an out-of-state bank with one or more branches in this State, or for an in-state bank with one or more branches outside this State, the assets of the out-of-state bank or of the in-state bank upon which the tax is levied ~~shall be~~ are reduced by the average amount for the taxable year of all assets of the out-of-state bank or of the in-state bank which are employed outside this State.

The tax imposed in this section ~~shall be is~~ for the privilege of carrying on the businesses herein defined on a statewide basis regardless of the number of places or locations of business within the State. ~~Counties and cities may not levy a license or privilege tax on the businesses taxed under this section, nor on the business of an international banking facility as defined in subdivision (b)(13) of G.S. 105-130.5."~~

**SECTION 12.2.(f)** G.S. 160A-194(a) reads as rewritten:

"(a) A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. Nothing in this section shall impair the city's power to levy ~~privilege license taxes a tax on~~ occupations, businesses, trades, professions, and other activities pursuant to G.S. 160A-211.2."

**SECTION 12.2.(g)** G.S. 160A-215.1(a) reads as rewritten:

"(a) As a substitute for and in replacement of the ad valorem tax, which is excluded by G.S. 105-275(42), a city may levy a gross receipts tax on the gross receipts from the short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and one-half percent (1.5%) of the gross receipts from such short-term leases or rentals. This tax on gross receipts is in addition to the ~~privilege taxes tax~~ authorized by ~~G.S. 160A-211.2.~~"

**SECTION 12.2.(h)** This section becomes effective July 1, 2015.

**SECTION 12.3.(a)** G.S. 153A-152 is repealed.

**SECTION 12.3.(b)** G.S. 153A-49 reads as rewritten:

**"§ 153A-49. Code of ordinances.**

A county may adopt and issue a code of its ordinances. The code may be reproduced by any method that gives legible and permanent copies, and may be issued as a securely bound book or books with periodic separately bound supplements, or as a loose-leaf book maintained by replacement pages. Supplements or replacement pages should be adopted and issued at least annually, unless there have been no additions to or modifications of the code during the year.

A code may consist of two parts, the "General Ordinances" and the "Technical Ordinances." The technical ordinances may be published as separate books or pamphlets, and may include ordinances regarding the construction of buildings, the installation of plumbing and electric wiring, and the installation of cooling and heating equipment; ordinances regarding the use of public utilities, buildings, or facilities operated by the county; the zoning ordinance; the subdivision control ordinance; ~~the privilege license tax ordinance;~~ and other similar ordinances designated as technical ordinances by the board of commissioners. The board may omit from the code the budget ordinance, any bond orders, and other designated classes of ordinances of limited interest or transitory nature, but the code shall clearly describe the classes of ordinances omitted from it.

The board of commissioners may provide that ordinances (i) establishing or amending the boundaries of county zoning areas or (ii) establishing or amending the boundaries of zoning districts shall be codified by appropriate entries upon official map books to be retained permanently in the office of the clerk or some other county office generally accessible to the public."

**SECTION 12.3.(c)** This section becomes effective July 1, 2015.

### **PART XIII: LICENSE PLATE AGENT COMPENSATION**

**SECTION 13.1.(a)** Section 2.(c) of S.L. 2013-372 reads as rewritten:

**"SECTION 2.(c)** Notwithstanding G.S. 20-63(h), as amended by subsection (a) of this section, the transaction rate of one dollar and six cents (\$1.06) applies to the collection of

property tax by commission contractors for vehicles whose registration renewals expire on or between September 30, 2013, and ~~February 28, 2014.~~ June 30, 2014."

**SECTION 13.1.(b)** The Division of Motor Vehicles must compensate license plate agents the additional fee for the collection of property taxes as provided in this section. For the period between March 1, 2014, and the date the Division of Motor Vehicles is able to implement the additional fee, the Division must calculate difference in the fee for agents contracting with the Division authorized by this section and the fee authorized in S.L. 2013-372. The Division must calculate the difference by September 1, 2014. The difference in the fee must be paid to the agents by reducing future remittances of tax payments to counties and municipalities under the Tax and Tag Together Program in equal amounts over a three month period.

**SECTION 13.2.** G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the office of the Division located in Wake, Cumberland, or Mecklenburg Counties and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina, including military installations within this State, with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection ~~will allow or permit~~ allows or permits the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax is considered a separate transaction for which one dollar and twenty-seven cents (\$1.27) compensation shall be paid. The issuance of a limited registration "T" sticker and the collection of property tax are each considered a separate transaction for which compensation at the rate of one dollar and twenty-seven cents (\$1.27) and ~~seventy-one cents (\$0.71),~~ one dollar and six cents (\$1.06) respectively, shall be paid by counties and municipalities as a cost of the combined motor vehicle registration renewal and property tax collection system. The performance at the same time of one or more of the transactions below is considered a single transaction for which one dollar and forty-three cents (\$1.43) compensation shall be paid:

- (1) Issuance of a registration plate, a registration card, a registration sticker, or a certificate of title.
- (2) Issuance of a handicapped placard or handicapped identification card.
- (3) Acceptance of an application for a personalized registration plate.
- (4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
- (5) Cancellation of a title because the vehicle has been junked.
- (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
- (7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.

- (8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
- (8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
- (8b), (9) Repealed by Session Laws 2013-372, s. 2(a), effective July 1, 2013.
- (10) Acceptance of a temporary lien filing."

**SECTION 13.3.** G.S. 105-330.5(b) reads as rewritten:

"(b) Distribution and Collection Fees. – The Property Tax Division of the Department of Revenue or a third-party contractor selected by the Property Tax Division must send a copy of the combined tax and registration notice for a registered classified motor vehicle to the motor vehicle owner, as defined in G.S. 20-4.01. The Department must establish a fee equal to the actual cost of preparing, printing, and sending the notice. The Department may receive a fee for each notice generated for a vehicle registered in a county or municipal corporation from the taxes and fees remitted to the county or municipal corporation in which the vehicle is registered. The collecting authority is responsible for collecting county and municipal taxes and fees assessed under this Article and may receive a fee for collecting these taxes and fees. The amount of this fee for an agent contracting with the Division of Motor Vehicles must equal at least the applicable amount set under G.S. 20-63(h). The amount of this fee for the Division of Motor Vehicles is the amount set by the memorandum of understanding entered into under G.S. 105-330.11 but shall not exceed the amount set under G.S. 20-63. The Property Tax Division must establish procedures to ensure that tax payments and fees received pursuant to this Article and Chapter 20 of the General Statutes are properly accounted for and taxes and fees due other taxing units and the Division of Motor Vehicles are remitted at least once each month."

**SECTION 13.4.** Section 34.17 of S.L. 2013-360 directs the Department of Transportation to evaluate current contractual models and compensation for the provision of registration, title, tax collection, and other vehicle service transactions by branch agents contracting with the Division of Motor Vehicles. The Department of Transportation shall provide to the Revenue Laws Study Committee any reports, recommendations, and findings that are a result of the study required under this section. The Department of Transportation shall also provide to each member of the Revenue Laws Study Committee a copy of any final report issued as a result of the study. The Revenue Laws Study Committee is directed to examine the information provided by the Department of Transportation and make an interim report of its findings and recommendation on the per transaction compensation amounts to the 2015 Regular Session of the 2015 General Assembly, and shall make a final report to the 2016 Regular Session of the 2015 General Assembly.

**SECTION 13.5.** Section 13.1 of this Part is effective March 1, 2014. Sections 13.2 and 13.3 of this Part become effective July 1, 2014, and apply to collections of property tax on or after that date. The remainder of this Part is effective when it becomes law.

#### **PART XIV: TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES**

**SECTION 14.1.** G.S. 105-114(b)(4) reads as rewritten:

"(4) Income year. – Defined in ~~G.S. 105-130.2(4b)~~. G.S. 105-130.2(10)."

**SECTION 14.2.** G.S. 105-129.26(a) reads as rewritten:

"(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits provided in this Article and in Article 5 of this Chapter for major recycling facilities if it meets all of the following conditions:

- (1) The facility is located in an area that, at the time the owner began construction of the facility, was ~~an enterprise tier one area pursuant to G.S. 105-129.3~~ a development tier one area as defined in G.S. 143B-437.08.
- (2) The Secretary of Commerce has certified that the owner will, by the end of the fourth year after the year the owner begins construction of the recycling

1 facility, invest at least three hundred million dollars (\$300,000,000) in the  
2 facility and create at least 250 new, full-time jobs at the facility.

3 (3) ~~The jobs at the recycling facility meet the wage standard in effect pursuant~~  
4 ~~to G.S. 105-129.4(b) as of the date the owner begins construction of the~~  
5 ~~facility."~~

6 **SECTION 14.3.** G.S. 105-130.5(b) reads as rewritten:

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

9 ...

10 (4) Losses in the nature of net economic losses sustained by the corporation in  
11 any or all of the 15 preceding years pursuant to the provisions of  
12 G.S. 105-130.8. A corporation required to allocate and apportion its net  
13 income under the provisions of G.S. 105-130.4 shall deduct its allocable and  
14 apportionable net economic loss only from total income allocable and  
15 apportionable to this State pursuant to the provisions of G.S. 105-130.8.

16 ..."

17  
18 **SECTION 14.4.(a)** G.S. 105-163.1(3) is repealed.

19 **SECTION 14.4.(b)** G.S. 105-163.5(b) reads as rewritten:

20 "(b) Every employee ~~shall, must,~~ at the time of commencing employment, furnish his or  
21 her employer with a signed withholding ~~exemption~~ allowance certificate informing the  
22 employer of the ~~exemptions~~ allowances the employee claims, which ~~in no event shall~~ may not  
23 exceed the amount of ~~exemptions~~ allowances to which the employee is entitled under the Code.  
24 If the employee fails to file the ~~exemption certificate~~ the employer, in computing amounts to be  
25 withheld from the employee's wages, shall allow the employee the exemption accorded a single  
26 person with no dependents, allowance certificate, the employer must compute the amount to be  
27 withheld from the employee's wages as if the employee were a single individual with no  
28 allowances."

29 **SECTION 14.5.(a)** G.S. 105-163.2 reads as rewritten:

30 **"§ 105-163.2. Employers must withhold taxes.**

31 (a) Withholding Required. – An employer shall deduct and withhold from the wages of  
32 each employee the State income taxes payable by the employee on the wages. For each payroll  
33 period, the employer shall withhold from the employee's wages an amount that would  
34 approximate the employee's income tax liability under Article 4 of this Chapter if the employer  
35 withheld the same amount from the employee's wages for each similar payroll period in a  
36 calendar year. In calculating an employee's anticipated income tax liability, the employer shall  
37 allow for the additions, exemptions, deductions, and credits to which the employee is entitled  
38 under Article 4 of this Chapter. The amount of State income taxes withheld by an employer is  
39 held in trust for the Secretary.

40 (b) Withholding Tables. – The manner of withholding and the amount to be withheld  
41 shall be determined in accordance with tables and rules adopted by the Secretary. The  
42 withholding allowances provided ~~exemption allowed~~ by these tables and rules shall, as nearly  
43 as possible, approximate the additions, exemptions, deductions, and credits to which an  
44 employee would be entitled under Article 4 of this Chapter. The Secretary shall promulgate  
45 tables for computing amounts to be withheld with respect to different rates of wages for  
46 different payroll periods applicable to the various combinations of allowances ~~exemptions~~ to  
47 which an employee may be entitled and taking into account the appropriate standard deduction.  
48 The tables may provide for the same amount to be withheld within reasonable salary brackets  
49 or ranges so designed as to result in the withholding during a year of approximately the amount  
50 of an employee's indicated income tax liability for that year. The withholding of wages  
51 pursuant to and in accordance with these tables shall be deemed as a matter of law to constitute

compliance with the provisions of subsection (a) of this section, notwithstanding any other provisions of this Article.

..."

**SECTION 14.5.(b)** G.S. 105-163.5 reads as rewritten:

**"§ 105-163.5. Employee withholding allowances; exemptions allowable; certificates.**

(a) An employee receiving wages is entitled to the withholding allowances that would result in the employer withholding approximately the employee's income tax liability under Article 4 of this Chapter. ~~exemptions for which the employee qualifies under Article 4 of this Chapter.~~

(b) Every employee shall, at the time of commencing employment, furnish his or her employer with a signed withholding allowance~~exemption~~ certificate informing the employer of the ~~allowances~~~~exemptions~~ the employee claims~~claims~~, which in no event shall exceed the amount of ~~exemptions to which the employee is entitled under the Code.~~ If the employee fails to file the allowance~~exemption~~ certificate the employer, in computing amounts to be withheld from the employee's wages, shall allow the employee the allowances~~exemption~~ accorded a single person with no dependents.

(c) Withholding allowance~~exemption~~ certificates shall take effect as of the beginning of the first payroll period that ends on or after the date on which the certificate is furnished, or if payment of wages is made without regard to a payroll period, then the certificate shall take effect as of the beginning of the miscellaneous payroll period for which the first payment of wages is made on or after the date on which the certificate is furnished.

(d) If, on any day during the calendar year, the amount of withholding allowance~~exemptions~~ to which the employee is entitled is less than the amount of withholding allowance~~exemptions~~ claimed by the employee on the withholding allowance~~exemption~~ certificate then in effect with respect to the employee, the employee shall, within 10 days thereafter, furnish the employer with a new withholding allowance~~exemption~~ certificate stating the amount of withholding allowance~~exemptions~~ which the employee then claims, which shall in no event exceed the amount to which the employee is entitled on that day. If, on any day during the calendar year, the amount of withholding allowance~~exemptions~~ to which the employee is entitled is greater than the amount of withholding allowance~~exemptions~~ claimed, the employee may furnish the employer with a new withholding allowance~~exemption~~ certificate stating the amount of withholding allowance~~exemptions~~ ~~which that~~ the employee then claims, which shall ~~in no event not~~ exceed the amount to which the employee is entitled on that day.

(e) Withholding allowance~~exemption~~ certificates must be in the form and contain the information required by the Secretary. ~~As far as practicable, the Secretary shall cause the form of the certificates to be substantially similar to federal exemption certificates.~~

(f) In addition to any criminal penalty provided by law, if an individual furnishes his or her employer an allowance~~exemption~~ certificate that contains information ~~which that~~ has no reasonable basis and that results in a lesser amount of tax being withheld under this Article than would have been withheld if the individual had furnished reasonable information, the individual is subject to a penalty of fifty percent (50%) of the amount not properly withheld."

**SECTION 14.6.** G.S. 105-163.2A(c) reads as rewritten:

"(c) Amount. – In the case of a periodic payment, the pension payer must withhold the amount that would be required to be withheld under this Article if the payment were a payment of wages by an employer to an employee for the appropriate payroll period. ~~If the recipient of periodic payments fails to file an exemption certificate under G.S. 105-163.5, the pension payer must compute the amount to be withheld as if the recipient were a married individual claiming three withholding exemptions.~~

In the case of a nonperiodic distribution, the pension payer must withhold taxes equal to four percent (4%) of the nonperiodic distribution."

SECTION 14.7. G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

...

(24) Net taxable sales. – The gross ~~retail~~ sales of the business of a retailer taxed under this Article after deducting exempt sales and nontaxable sales.

...

(35) Retailer. – A person engaged in ~~the~~ business of any of the following:

a. Making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article.

b. Delivering, erecting, installing, or applying tangible personal property for use in this State, regardless of whether the property is permanently affixed to real property or other tangible personal property.

c. Making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.

..."

SECTION 14.8. G.S. 105-164.4 reads as rewritten:

"§ 105-164.4. Tax imposed on retailers.

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

...

(2) The applicable percentage rate applies to the gross receipts derived from the lease or rental of tangible personal property by a person who is engaged in ~~the~~ business of leasing or renting tangible personal property, or is a retailer and leases or rents property of the type sold by the retailer. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is leased or rented. A person who leases or rents property shall also collect the tax imposed by this section on the separate retail sale of the property.

...

(4b) A person who sells tangible personal property at a specialty ~~market~~, market or other event, other than the person's own household personal property, is considered a retailer under this Article. A tax at the general rate of tax is levied on the sales price of each article sold by the retailer at the specialty ~~market~~, market or other event. The term "specialty market" has the same meaning as defined in G.S. 66-250.

...



(4d) The general rate applies to the gross receipts derived from the sale or recharge of prepaid telephone calling service is taxable at the general rate of tax. ~~service.~~ The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. The tax applies to a service that is sold in conjunction with prepaid wireless calling service. Prepaid telephone calling service is taxable at the point of sale instead of at the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid telephone calling service taxed under this subdivision is not subject to tax as a telecommunications service.

(b) The tax levied in this section shall be collected from the retailer and paid by him at the time and in the manner as hereinafter provided. ~~Provided, however, that any A person engaging or continuing in business as a retailer shall pay the tax required on the net taxable sales of such the business at the rates specified when proper books are kept showing separately the gross proceeds of taxable and nontaxable sales of tangible personal property items subject to tax under subsection (a) of this section in such a form as that may be accurately and conveniently checked by the Secretary or his the Secretary's duly authorized agent. If the such records are not kept separately separately, the tax shall be paid as a retailer on the gross sales of the business and the exemptions and exclusions provided by this Article shall not be are not allowed. The tax levied in this section is in addition to all other taxes whether levied in the form of excise, license or privilege or other taxes. license, privilege, or other taxes.~~

(c) Certificate of Registration. – Before a person may engage in business as a retailer or a wholesale merchant, ~~merchant in this State,~~ the person must obtain a certificate of registration from the Department in accordance with G.S. 105-164.29. A facilitator that is liable for tax under G.S. 105-164.4(a)(3) must obtain a certificate of registration from the Department in accordance with G.S. 105-164.29."

**SECTION 14.9.(a)** G.S. 105-164.6(f) reads as rewritten:

"(f) Registration. – A person must obtain a certificate of registration in accordance with G.S. 105-164.29 under any of the following circumstances:

- (1) ~~Before a the person may engage engages in business in this State selling or delivering tangible personal property, digital property, or a service for storage, use, or consumption in this State, the person must obtain a certificate of registration from the Department. State. To obtain a certificate of registration, a person must register with the Department.~~
- (2) If the person is a facilitator that is liable for tax pursuant to G.S. 105-164.4(a)(3).

~~The holder of the certificate of registration must pay the tax levied under this Article. A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."~~

**SECTION 14.9.(b)** G.S. 105-164.29 reads as rewritten:

**"§ 105-164.29. Application for certificate of registration by wholesale merchants and retailers. merchants, retailers, and facilitators.**

(a) Requirement and Application. – Before a person may engage in business as a retailer or a wholesale merchant, ~~merchant or when a facilitator is liable for tax under G.S. 105-164.4(a)(3),~~ the person must obtain a certificate of registration. To obtain a certificate of registration, a person must register with the Department. ~~A wholesale merchant or retailer person who has more than one business is required to obtain only one certificate of registration for each legal entity to cover all operations of the each business throughout the State. An application for registration must be signed as follows:~~

- (1) By the owner, if the owner is an individual.

- (2) By a manager, member, or partner, if the owner is an association, a partnership, or a limited liability company.
- (3) By an executive officer or some other person specifically authorized by the corporation to sign the application, if the owner is a corporation. If the application is signed by a person authorized to do so by the corporation, written evidence of the person's authority must be attached to the application.

(b) Issuance. – A certificate of registration is not assignable and is valid only for the person in whose name it is issued. A copy of the certificate of registration must be displayed at each place of business.

(c) Term. – A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer who makes taxable sales or a facilitator liable for tax under G.S. 105-164.4(a)(3) becomes void if, for a period of 18 months, the retailer or facilitator files no returns or files returns showing no sales.

(d) Revocation. – The failure of a wholesale merchant or retailer to comply with this Article or G.S. 14-401.18 or the failure of a facilitator to comply with this Article is grounds for revocation of the ~~wholesale merchant's or retailer's person's~~ certificate of registration. Before the Secretary revokes a ~~wholesale merchant's or retailer's person's~~ certificate of registration, the Secretary must notify the ~~wholesale merchant or retailer person~~ that the Secretary proposes to revoke the certificate of registration and that the proposed revocation will become final unless the ~~wholesale merchant or retailer person~~ objects to the proposed revocation and files a request for a Departmental review within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of a proposed revocation.

(e) Definition. – For purposes of this section, the term "person" means a wholesale merchant, a retailer, or a facilitator."

**SECTION 14.10.** Article 5 of Chapter 105 of the General Statutes is amended by adding a new statutory section to read:

**"§ 105-164.45. Applicable due date when due date falls on weekend, holiday, or when the Federal Reserve Bank is closed.**

(a) Weekends and Holidays. – When the last day for doing an act required or permitted by this Article or Subchapter VIII of this Chapter falls on a Saturday, Sunday, or holiday, the act is considered to be done within the prescribed time limit if it is done on the next business day.

(b) Federal Reserve Bank Closure. – If the Federal Reserve Bank is closed on a due date that prohibits a person from making a payment by ACH debit or credit as required by this Article or Subchapter VIII of this Chapter, the payment is timely if made on the next day the Federal Reserve Bank is open."

**SECTION 14.11.** G.S. 105-228.4A(c) reads as rewritten:

(c) Administration. – The definitions in G.S. 58-10-340 apply in this section. A company subject to this section must file with the Secretary a full and accurate report of the premiums contracted for or collected on policies or contracts of insurance written by the company during the preceding calendar year. In the case of a multiyear policy or contract, the premiums must be prorated among the years covered by the policy or contract. The report is due on or before March ~~1~~15. The taxes imposed by this section are due to the Secretary with the report.

**SECTION 14.12.** G.S. 105-236.1(a) reads as rewritten:

"(a) General. – The Secretary may appoint employees of the Unauthorized Substances Tax Section of the Tax Enforcement Division to serve as revenue law enforcement officers

1 having the responsibility and subject-matter jurisdiction to enforce the excise tax on  
2 unauthorized substances imposed by Article 2D of this Chapter.

3 The Secretary may appoint up to 11 employees of the Motor Fuels Investigations Section of  
4 the Tax Enforcement Division to serve as revenue law enforcement officers having the  
5 responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels imposed by  
6 Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

7 The Secretary may appoint employees of the Criminal Investigations Section of the Tax  
8 Enforcement Division to serve as revenue law enforcement officers having the responsibility  
9 and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

- 10 (1) The felony and misdemeanor tax violations in G.S. 105-236.
- 11 (2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.
- 12 (3) The following criminal offenses when they involve a tax imposed under  
13 Chapter 105 of the General Statutes:
  - 14 a. G.S. 14-91 (Embezzlement of State Property).
  - 15 b. G.S. 14-92 (Embezzlement of Funds).
  - 16 c. G.S. 14-100 (Obtaining Property By False Pretenses).
  - 17 c1. G.S. 14-113.20 (Identity Theft).
  - 18 c2. G.S. ~~14-133.20A~~ 14-113.20A (Trafficking in Stolen Identities).
  - 19 d. G.S. 14-119 (Forgery).
  - 20 e. G.S. 14-120 (Uttering Forged Paper).
  - 21 f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes).
  - 22 (g) G.S. 14-118.7 (Possession, transfer, or use of automated sales  
23 suppression device)."

24 **SECTION 14.13.(a)** All amended returns under G.S. 105-116 must be filed within  
25 three years from the due date of the original return. The Department must process amended  
26 returns under G.S. 105-116 within six months of receipt of the return. When the Department  
27 processes an amended franchise tax return under G.S. 105-116 that changes the taxable gross  
28 receipts of electricity derived within a city so that the amount that should have been distributed  
29 to that city under G.S. 105-116.1 for distributions made on or before September 30, 2014, is  
30 greater than or less than the amount actually distributed to that city, the Department of Revenue  
31 must adjust the next quarterly distribution under G.S. 105-164.44K by the applicable amount,  
32 and re-determine the franchise tax share for that city based upon the amended return in  
33 accordance with subsection (b) of this section. The Department of Revenue must draw the  
34 funds needed to make an increased distribution from sales and use tax collections under Article  
35 5 of Chapter 105 of the General Statutes.

36 **SECTION 14.13.(b)** The Department of Revenue must determine the quarterly  
37 franchise tax share a city is eligible to receive under G.S. 105-164.44K(b) for each quarter of  
38 the fiscal year on or before September 15 for the fiscal year that began the preceding July 1.  
39 The Department must include all amended franchise tax returns under G.S. 105-116 processed  
40 by the Department by the preceding July 31 in the franchise tax share determination. The  
41 determination made by the Department with respect to the city's franchise tax share for that  
42 fiscal year is final. The distributions are payable as provided in G.S. 105-164.44K.

43 **SECTION 14.13.(c)** All amended returns under G.S. 105-187.41 must be filed  
44 within three years from the due date of the original return. The Department must process  
45 amended returns under G.S. 105-187.41 within six months of receipt of the return. When the  
46 Department processes an amended excise tax return under G.S. 105-187.41 that changes the  
47 amount of the tax attributable to a city so that the amount that should have been distributed to  
48 that city under G.S. 105-187.44 for distributions made on or before September 30, 2014, is  
49 greater than or less than the amount actually distributed to that city, the Department of Revenue  
50 must adjust the next quarterly distribution under G.S. 105-164.44L for the city by the  
51 applicable amount, and re-determine the excise tax share for that city based upon the amended

return in accordance with subsection (b) of this section. The Department of Revenue must draw the funds needed to make an increased distribution from sales and use tax collections under Article 5 of Chapter 105 of the General Statutes.

**SECTION 14.13.(d)** The Department of Revenue must determine the quarterly excise tax share a city is eligible to receive under G.S. 105-164.44L(b) for each quarter of the fiscal year on or before September 15 for the fiscal year that began the preceding July 1. The Department must include all amended excise tax returns under G.S. 105-187.41 processed by the Department by the preceding July 31 in the excise tax share determination. The determination made by the Department with respect to the city's franchise tax share for that fiscal year is final. The distributions are payable as provided in G.S. 105-164.44L.

**SECTION 14.13.(e)** This section becomes effective when it becomes law and expires July 1, 2018.

**SECTION 14.14.(a)** G.S. 105-277.3(d1) reads as rewritten:

"(d1) ~~Exception for Easements on Qualified Conservation Lands Previously Appraised at Use Value.~~ Exception. – Property that is appraised at its present-use value under G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject to ~~an enforceable a qualifying conservation easement that would qualify for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12, that meets the requirements of G.S. 113A-232,~~ without regard to actual production or income requirements of this section; and (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of the donated property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the property does not extinguish its present-use value eligibility as long as the property remains subject to ~~an enforceable a qualifying conservation easement that qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12.~~ easement. The exception provided in this subsection applies only to that part of the property that is subject to the easement."

**SECTION 14.14.(b)** G.S. 113-77.9(d) reads as rewritten:

"(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article ~~shall be~~ is vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

**SECTION 14.14.(c)** G.S. 113A-231 reads as rewritten:

**"§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environment and Natural Resources shall develop a nonregulatory program ~~that uses conservation tax credits as a prominent tool to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real property; property donated for tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs; conservation or conserved by other means.~~ The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

**SECTION 14.14.(d)** G.S. 113A-232 reads as rewritten:

**"§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by the Department. The purpose of the Fund is to stimulate the use of conservation ~~easements and conservation tax~~

1 ~~credits, easements,~~ to improve the capacity of private nonprofit land trust organizations to  
2 successfully accomplish conservation projects, to better equip real estate related professionals  
3 to pursue opportunities for conservation, to increase landowner participation in land and water  
4 conservation, and to provide an opportunity to leverage private and other public monies for  
5 conservation easements.

6 (b) Fund Sources. – The Conservation Grant Fund shall consist of any monies  
7 appropriated to it by the General Assembly and any monies received from public or private  
8 sources. Unexpended monies in the Fund that were appropriated from the General Fund by the  
9 General Assembly shall revert at the end of the fiscal year unless the General Assembly  
10 otherwise provides. Unexpended monies in the Fund from other sources shall not revert and  
11 shall remain available for expenditure in accordance with this Article.

12 (c) Property Eligibility. – In order for real property or an interest in real property to be  
13 the subject of a grant under this Article, the real property or interest in real property must meet  
14 all of the following conditions:

15 (1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~  
16 value.

17 (2) ~~Be reasonably restorable, and must qualify for tax credits under~~  
18 ~~G.S. 105-130.34 or G.S. 105-151.12.~~ restorable.

19 (3) Be useful for one or more of the following purposes:

20 a. Public beach access or use.

21 b. Public access to public waters or trails.

22 c. Fish and wildlife conservation.

23 d. Forestland or farmland conservation.

24 e. Watershed protection.

25 f. Conservation of natural areas as that term is defined in  
26 G.S. 113A-164.3(3).

27 g. Conservation of predominantly natural parkland.

28 (4) Be donated in perpetuity to and accepted by the State, a local government, or  
29 a body that is both organized to receive and administer lands for  
30 conservation purposes and qualified to receive charitable contributions under  
31 G.S. 105-130.9. Land required to be dedicated pursuant to local  
32 governmental regulation or ordinance and dedications made to increase  
33 building density levels permitted under a regulation or ordinance do not  
34 qualify.

35 (c1) Grant Eligibility. – State conservation land management agencies, local government  
36 conservation land management agencies, and private nonprofit land trust organizations are  
37 eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust  
38 organizations must be ~~qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be~~  
39 certified under section 501(c)(3) of the Internal Revenue Code. ~~Code to aid in managing the~~  
40 land.

41 (d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for  
42 the following purposes:

43 (1) The administrative costs of the Department in administering the Fund.

44 (2) Conservation grants made in accordance with this Article.

45 (3) To establish an endowment account, the interest from which will be used for  
46 a purpose described in G.S. 113A-233(a)."

47 **SECTION 14.14.(e)** G.S. 113A-233 reads as rewritten:

48 **"§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

49 (a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to  
50 pay for one or more of the following costs:

- (1) Reimbursement for total or partial transaction costs for a donation of real property or an interest in real property from an individual or corporation satisfying either of the following:
- a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.
  - b. Insufficient tax burdens to allow these costs to be offset by ~~the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~ charitable deductions.
- (2) Management support, including initial baseline inventory and planning.
- (3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.
- (4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.
- (5) Stewardship of land.
- (6) Transaction costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
- (7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price of real property or an interest in real property."

**SECTION 14.14.(f)** G.S. 113A-256(g) is repealed.

**SECTION 14.15.** Section 21.1.(m) of S.L. 2013-360 reads as rewritten:

~~"SECTION 21.1.(m) Subsection (e) of this section is effective for taxable years beginning on or after January 1, 2013. The remainder of this~~ This section becomes effective July 1, 2013."

**SECTION 14.16.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 2, 2013,~~ December 31, 2013, including any provisions enacted as of that date that become effective either before or after that date."

**SECTION 14.16.(b)** This section is effective when it becomes law. Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after January 2, 2013, that increase North Carolina taxable income for the 2013 taxable year become effective for taxable years beginning on or after January 1, 2014.

**SECTION 14.17.** G.S. 105-242(g) reads as rewritten:

"(g) Erroneous Lien. – A taxpayer may appeal to the Secretary after a certificate is filed under subsection (c) of this section if the taxpayer alleges an error in the filing of the lien. The Secretary shall make a determination of such an appeal as quickly as possible. If the Secretary finds that the filing of the certificate was erroneous, the Secretary shall ~~issue a certificate of release of the lien as quickly as possible.~~ withdraw the lien as quickly as possible by issuing a certificate of withdrawal."

**SECTION 14.18.** G.S. 105-242.2 reads as rewritten:

**"§ 105-242.2. Personal liability when certain taxes not paid.**

(a) Definitions. – The following definitions apply in this section:

- (1) Business entity. – A corporation, a limited liability company, or a partnership.
- (2) Responsible person. – Any of the following:
  - a. The president, treasurer, or chief financial officer of a corporation.
  - b. A manager of a limited liability company or a partnership.
  - c. An officer of a corporation, a member or company official of a limited liability company, or a partner in a partnership who has a

duty to deduct, account for, or pay taxes listed in subsection (b) of this section.

d. A partner who is liable for the debts and obligations of a partnership under G.S. 59-45 or G.S. 59-403.

(b) Responsible Person. – Each responsible person in a business entity is personally and individually liable for the principal amount of taxes that are owed by the business entity and are listed in this subsection. If a business entity does not pay the amount it owes after the amount becomes collectible under G.S. 105-241.22, the Secretary may enforce the responsible person's liability for the amount by sending the responsible person a notice of proposed assessment in accordance with G.S. 105-241.9. This subsection applies to the following:

- (1) All sales and use taxes collected by the business entity upon its taxable transactions.
- (2) All sales and use taxes due upon taxable transactions of the business entity but upon which it failed to collect the tax, but only if the person knew, or in the exercise of reasonable care should have known, that the tax was not being collected.
- (3) All taxes due from the business entity pursuant to the provisions of Articles 36C and 36D of Subchapter V of this Chapter and all taxes payable under those Articles by it to a supplier for remittance to this State or another state.
- (4) All income taxes required to be withheld ~~from the wages of employees of~~ by the business entity.

..."

**SECTION 14.19.** G.S. 105-296(m) reads as rewritten:

"(m) The assessor shall annually review the transportation corridor official maps and amendments to them filed with the register of deeds pursuant to Article 2E of Chapter 136 of the General Statutes. The assessor must indicate on all tax maps maintained by the county or city that portion of the properties embraced within a transportation corridor and must note any variance granted for the property for such period as the designation remains in effect. The assessor must tax the property within a transportation corridor as required under ~~G.S. 105-277.9~~, 105-277.9 and G.S. 105-277.9A."

**SECTION 14.20.(a)** G.S. 105-309(d) reads as rewritten:

"(d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. ~~Personal property shall also be listed to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.~~

- (1) If the assessor considers it necessary to obtain a complete listing of personal property, the assessor may require a taxpayer to submit additional information, inventories, or itemized lists of personal property.
- (2) At the request of the assessor, the taxpayer shall furnish any information the taxpayer has with respect to the true value of the personal property the taxpayer is required to list."

**SECTION 14.20.(b)** G.S. 105-320(a)(16) is repealed.

**SECTION 14.21.** G.S. 105-315(a)(2) reads as rewritten:

**"§ 105-315. Reports—Report by persons having custody of tangible personal property of others.**

(a) As of January 1, every person having custody of taxable tangible personal ~~property~~ property that has been entrusted to ~~him—the person~~ by another for storage, sale, renting, or any other business purpose shall furnish to the appropriate assessor of the county in which the property is situated ~~the reports required by subdivision (a)(2), below:~~ a report with the information listed in this subsection. This requirement does not apply to a person having custody of inventories exempt under G.S. 105-275(32a), (33), or (34). As used in this section,

the term "person having custody of taxable tangible personal property" includes warehouses, cooperative growers' and marketing associations, consignees, factors, commission merchants, and brokers. The report must include all of the following:

(1) Repealed by Session Laws 1987, c. 813, s. 14.

(2) ~~For all tangible personal property, except inventories exempt under G.S. 105-275(33) and (34), there shall be furnished to the assessor of the county in which the property is situated a statement showing the~~ The name of the owner of the property, a description of the property, the quantity of the property, and the amount of money, if any, advanced against the property by the person having custody of it.

(3) A description of the property. ~~For purposes of illustration, but not by way of limitation, the term "person having custody of taxable tangible personal property" as used in this subsection (a) shall include warehouses, cooperative growers' and marketing associations, consignees, factors, commission merchants, and brokers.~~

(4) The quantity of the property.

(5) The amount of money, if any, advanced against the property by the person having custody of the property.

(b) ~~Any~~ A person who fails to make the ~~reports-report~~ required by subsection (a), ~~above, this section,~~ by January 15 in any year ~~shall be is~~ liable to the counties in which the property is taxable for a penalty to be measured by any portion of the tax on the property that has not been paid at the time the action to collect this penalty is brought plus two hundred fifty dollars (\$250.00). This penalty may be recovered in a civil action in the appropriate division of the General Court of Justice of the county in which the property is taxable. Upon recovery of this penalty, the tax on the property ~~shall be is~~ deemed ~~to be~~ paid."

**SECTION 14.22.** G.S. 105-537(d) is repealed.

**SECTION 14.23.** Section 60(l) of S.L. 2013-414 reads as rewritten:

**"SECTION 60.(l)** Section 4 of Chapter ~~605555~~ of the 1991 Session ~~Laws-Laws~~, as amended by Section 1 of S.L. 1997-447, is repealed."

**SECTION 14.24.** Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

**"§ 20-79.1B Additional limited registration plates.**

When the Division or License Plate Agency issues a plate other than a renewal of a plate for a vehicle whose registration has been expired for at least one year, the customer may, if he or she disputes the amount of tax owed for the current year under G.S. §105-330.5, opt for a limited registration plate until the tax issue is resolved with the county. Within 12 months of the date the limited plate is issued under this section, the customer must pay all taxes due before the customer is issued a new registration certificate and a year sticker to be applied to the plate showing it to expire one year after the issuance of the limited registration plate."

## **PART XV: EFFECTIVE DATE**

**SECTION 15.1.** Except as otherwise provided, this act is effective when it becomes law.