



Bill Draft 2013-SVxz-22A: Omnibus Tax Law Changes.

2013-2014 General Assembly

Committee: Revenue Laws Study Committee
Introduced by:
Analysis of: 2013-SVxz-22A

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Prepared by: Finance Team
Committee Counsel

SUMMARY: *This bill draft makes various tax law changes recommended by the Revenue Laws Study Committee. The Revenue Laws Study Committee met each month during the interim and began reviewing bill drafts at its November meeting. The Committee posted the drafts on its website; received comments from taxpayers, the Department of Revenue, and other interested parties; and held robust debates. The Committee's meeting materials may be found on its website. [Revenue Laws Committee Documents](#)*

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE: The bill draft incorporates the various bill drafts the Revenue Laws Study Committee considered this past interim. The purpose of this summary is to highlight the major provisions in each Part and to provide links to more detailed explanations.

PART I. DEDUCTION FOR STATE NET LOSS

This Part replaces the corporate net economic loss deduction with a State net loss deduction that is more comparable to the federal net operating loss deduction. The provision also removes the requirement that a net economic loss must first be offset by nontaxable income and instructs the Secretary of Revenue to apply the standards under sections 381 and 382 of the Internal Revenue Code when determining the extent to which a loss survives a merger or acquisition. The chairs appointed a subcommittee to study this issue and it recommended this proposal. The change becomes effective for taxable years beginning on or after January 1, 2015. [State Net Loss Bill Summary](#)

PART II. OTHER INCOME TAX CHANGES

This Part includes the following changes to the income tax laws:

- Corrects the dollar amount of the section 179 expense investment limit. This provision needs to be enacted as soon as possible since it impacts 2013 tax returns. Many taxpayers have filed extensions, waiting for this provision to be enacted. Others may file amended returns. The Committee first discussed this issue at its November 12, 2013, meeting. See Section 5 of the *Revenue Laws Technical Corrections* bill draft. [Section 179 Bill Summary](#)
- Clarifies the application of the standard deduction and the \$20,000 deduction for mortgage interest expenses paid and property taxes paid on real estate. The Committee first discussed the latter issues at its November 12, 2013, meeting and the first issue at its April 9, 2014, meeting. See Section 2 of the *Revenue Laws Administrative and Clarifying Changes* bill draft. [Standard and Itemized Deduction Bill Summary](#)
- Updates the statutory references in G.S. 105-160.2 which imposes income tax on estates and trusts. Estates and trust generally receive the same modifications to taxable income and tax rates as single individuals. S.L. 2013-316 moved the statutes allowing modifications to North Carolina



taxable income and setting the tax rate. The Committee first addressed this issue at its December 10, 2013, meeting.

PART III. AGRICULTURAL EXEMPTION CERTIFICATE

S.L. 2013-316 imposed an income threshold a person must meet to qualify for a sales tax agricultural exemption certificate, effective for purchases made on or after July 1 2014. This Part gives guidance to the farming community and the Department of Revenue as to the administration of the income threshold. It also allows the threshold to be met through a three-year income averaging to address issues of income volatility in farming operations. The Committee began looking at this issue at its February 11, 2014, meeting. [Farm Exemption Certificate Bill Summary](#)

PART IV. PREPAID MEAL PLANS

S.L. 2013-316 repealed the sales tax exemption for meals served to students in dining rooms regularly operated by educational institutions. The repeal of the exemption imposes the sales tax on a transactional basis. However, in practice, meals are not always directly sold. Today, educational institutions sell a variety of meal plans that offer choices between a specific number of "meal swipes" on a prepaid meal plan and "food dollars" that may be used to purchase items directly. The Committee began looking at this issue at its first meeting on October 8, 2013. The meal swipes are problematic to tax on a transactional basis because the gross receipts paid for the meal swipes applies regardless of whether or not the meals are consumed. This Part imposes the sales tax on the gross receipts derived from prepaid meal plans and makes other changes that will greatly simplify the administrative compliance burden and that will alleviate confusion regarding who is the retailer, what is the taxable transaction, and how the local tax revenues are sourced. This provision needs to be enacted as soon as possible because educational institutions will begin billing for the fall semester in June and payments will be received primarily during the months of July and August. [Prepaid Meal Plans Bill Summary](#)

PART V. ADMISSIONS

S.L. 2013-316 changed the taxation of live events and movies from a gross receipts privilege tax to a State and local sales tax. It also expanded the sales tax base to include other attractions for which an admission is charged. The act listed five exemptions from the tax. This Part answers questions taxpayers have about the administration and implementation of the tax, such as who must collect the tax, how will the local tax revenues be sourced, and what constitutes "admission charges". The Committee received numerous questions related to the exemptions, so the chairs appointed a subcommittee to specifically look at the exemptions. The subcommittee recommended streamlining and limiting the number of exemptions as the simplest way to ease confusion and ensure that similar events are taxed similarly, regardless of who sponsors the events. The Committee began looking at this issue at its first meeting on October 8, 2013. [Admissions Bill Summary](#)

PART VI. SERVICE CONTRACTS

S.L. 2013-316 expanded the sales tax base to include the sales price of a service contract. This Part removes ambiguity from the definition of a "service contract" and addresses the concerns expressed by taxpayers related to who must collect the tax and how to administer refunds of sale tax paid on service contracts that are later rescinded. The Committee first began looking at this issue at its first meeting on October 8, 2013. [Service Contracts Bill Summary](#)

PART VII. RETAILER-CONTRACTORS

The applicability of sales tax where retailers may also be performance contractors has been a source of contention and litigation over the past several years. The Revenue Laws Study Committee first looked at the issue in 2012. The Committee revisited the issue this interim at its November 12, 2013, meeting. The

chairs appointed a subcommittee to recommend how to apply the sales tax to retailer-contractors. The subcommittee reported to the full Committee at its February 11, 2014, meeting. This Part provides greater clarity to taxpayers and the Department of Revenue as to the applicability of the sales tax to retailer-contractors. [Retailer-Contractor Bill Summary](#).

PART VIII. OTHER SALES TAX CHANGES

This Part of the bill draft addresses various sales tax issues concerning the expansion of the sales tax base in S.L. 2013-316. It also addresses a sales tax issue concerning the taxation of accommodations from conflicting Department of Revenue interpretations over the past years.

- Provides that a private residence or cottage rented for fewer than 15 days that is listed by a real estate broker or agent is subject to sales tax and occupancy tax. Beginning in 1984, the Department of Revenue interpreted the private residence exemption to apply only if the residence was not listed with a real estate agent. A 1988 memo by an Associate Attorney General supported this interpretation. In 2012, the Department changed its interpretation and issued an Important Notice indicating that the sales tax exemption applied to a private residence rented for fewer than 15 days regardless of whether it was listed with a real estate agent. The Department of Revenue asked for legislative clarification on this issue. See Section 3 of the *Revenue Laws Administrative and Clarifying Changes* bill draft. [Accommodations Bill Summary](#)
- Disallows a sales tax refund for sales tax paid on video programming and piped natural gas. Historically, the State sales tax refunds allowed to nonprofits and local governments has not applied to sales tax paid on utilities. This section becomes effective July 1, 2014. See Section 7 of the *Revenue Laws Administrative and Clarifying Changes* bill draft. [Sales Tax Refunds Bill Summary](#)
- Exempts from sales tax 50% of the sales price of manufactured and modular homes. The Committee first looked at this issue at its December 10, 2013, meeting. S.L. 2013-316 increased the tax rate on manufactured homes from 2% with a \$300 cap to 4.75% and increased the rate on modular homes from 2.5% to 4.75%. The sales tax exemption allowed by this section becomes effective July 1, 2014. See Section 6 of the *Revenue Laws Administrative and Clarifying Changes* bill draft. [Sales Tax on Manufactured and Modular Homes Bill Summary](#)
- Maintains the legislative intent that all newspaper be taxed the same and removes the obsolete sales tax exemption for sales from vending machines of one cent per sale. See Section 5 of the *Revenue Laws Administrative and Clarifying Changes* bill draft. [Sales Tax on Certain Vending Machine Sales Bill Summary](#)

PART IX. EXCISE TAX CHANGES

The Committee recommends various changes to the alcohol, tobacco, and motor fuel excise tax statutes at the request of the Department of Revenue and taxpayers. The Committee considered these changes at its March 12, 2014, meeting. [Excise Tax Changes Bill Summary](#)

PART X. TAX LAW COMPLIANCE CHANGES

The Department of Revenue requested the Committee to consider enhancing its tools to improve compliance with the revenue laws. [NCDOR Collection Update Presentation](#) The Committee approved two of the three items requested: increasing the budget for locator service fees and subjecting renewal of ABC retail permits to tax compliance checks. The Committee discussed the bill draft at its February 11, 2014, and its March 12, 2014, meetings. [Tax Compliance Bill Summary](#)

PART XI. PROPERTY TAX CHANGES

This Part provides for the central assessment of mobile telecommunications equipment by experienced public service company appraisers at the Department of Revenue. Under current law, the property is locally assessed by each county. The change is supported by the mobile telecommunications industry, the Department of Revenue, and local governments. The Part would become effective for taxable years beginning on or after July 1, 2015. See Section 11 of the *Revenue Laws Administrative and Clarifying Changes* bill draft. [Property Tax Bill Summary](#)

PART XII. PRIVILEGE LICENSE TAX CHANGES

The Revenue Laws Study Committee has been presented with an overview of the local privilege license tax system four times in 10 years: 2004, 2008, 2012, and 2014. Historically, this system of taxation has been considered an outmoded, inefficient, and arbitrary method of raising revenue largely because it places a tax burden on only a limited portion of businesses. The tax has been characterized as archaic, arbitrary, and inconsistent. It is archaic because it is based on references to repealed statutes. It is arbitrary because there is no rationale for exempting some businesses, capping the amount of tax that may be imposed on other businesses, and subjecting still others to an unlimited amount of tax. It is inconsistent because different cities impose the tax in different amounts and use different interpretations of how to apply the repealed statutes. [Local Privilege License Taxes](#)

Effective July 1, 2015, this Part repeals the current local privilege license tax and replaces it with a broader tax base and a flat tax rate of \$100 per business. Although many cities may levy a privilege license tax, less than a dozen receive a measurable amount of revenue from it. For many cities, the loss of revenue from the repeal of the current tax structure is overcome by the revenue it receives in local sales tax revenue from an expansion of the sales tax base under S.L. 2013-316 and from the greater collection of sales tax applicable to online purchases from the agreement of Amazon to collect and remit sales tax on purchases made through Amazon. [Fair & Flat Local Business Tax Bill Summary](#) [Local Privilege License Tax Impact Chart](#)

PART XIII. LICENSE PLATE AGENT COMPENSATION

S.L. 2013-372 increased compensation for license plate agents (LPAs) to recognize new job responsibilities imposed upon them under the Tax & Tag Together program. The State began the implementation of the Tax & Tag Together program in September 2013. Under this program, a motor vehicle owner receives one bill and makes one payment for both property taxes and vehicle registration renewal. Under the legislation, the transaction rate for the transitional period of the first six months of the program was set at \$1.06; the rate was set at \$0.71 thereafter. The legislation directed the Revenue Laws Study Committee to study the transaction rate applicable to LPAs. The chairs appointed a subcommittee to review the changes. This Part sets the rate at the transitional rate of \$1.06, clarifies the increased rate applies to all transactions where a LPA collects property tax as of July 1, 2014, and allows the retroactive portion of the fee increase to be paid out over a three month time period. [Compensation of LPAs Bill Summary](#)

PART XIV. TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES

This Part makes various other technical, clarifying, and administrative changes to the revenue laws. [Technical Changes Bill Summary](#) [Administrative and Clarifying Changes Bill Summary](#)

PART XV. EFFECTIVE DATE

Except as otherwise provided in the bill draft, the bill becomes effective when it becomes law.