

# 2017 NC Tax Law Changes

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Revenue Laws Committee, April 11, 2018

## Three Primary Bills

- House Bill 59, S.L. 2017-39
  - Revenue Laws Technical Changes
  - Includes the IRC update from 1-1-16 to 1-1-17
- Senate Bill 257, S.L. 2017-57
  - Individual Income Tax Changes
  - Corporate Income and Franchise Tax Changes
  - Sales Tax Changes re: Machinery and Equipment
- Senate Bill 628, S.L. 2017-204
  - Not sure where to look? Look here first!
  - Various Revenue Law Changes
  - Sales Tax on RMI Services



## Income Tax Changes

Individual income tax

Corporate income & Franchise tax

## Reduce Rates & Increase Standard Deduction

- CIT tax rate
  - From 3%
  - To 2.5%
  - Effective January 1, 2019
- PIT tax rate
  - From 5.499%
  - To 5.25%
  - Effective January 1, 2019
- PIT standard deduction
  - From \$17,500 (MFJ)
  - To \$20,000 (MFJ)
  - Effective January 1, 2019



## Franchise Tax Changes

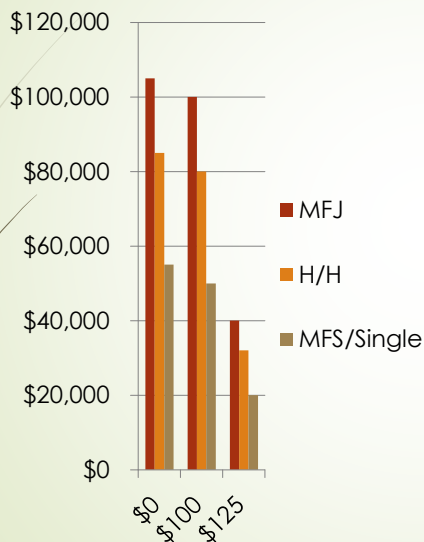
### Lower Rate for S-Corps

- Effective for 2018 tax returns  
Flat \$200 for first \$1M of tax base;  
\$1.50 per \$1,000 of tax base that  
exceeds \$1M
- Roughly 95% of S-corporations in  
NC have a net worth < \$1M

### Tax Base Change

- Deduction for debt
  - Repealed, 2015
  - Re-enacted, 2020
- Allows the tangible property base  
to be reduced by the amount of  
any debt owed on the property

## Child Tax Credit Converted to a Deduction



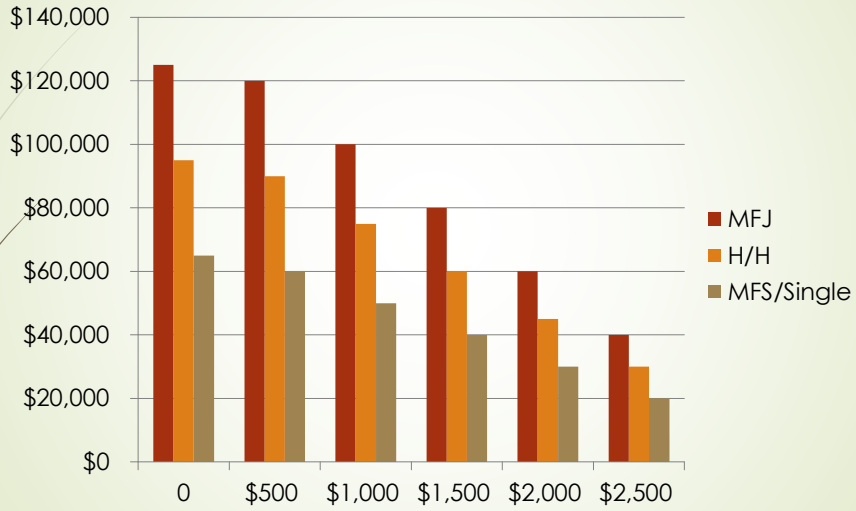
### Tax Credit

- Reduces tax due on a dollar for  
dollar basis
- Cannot be used to reduce tax  
liability below 0

### Tax Deduction

- Reduces taxable income to  
which tax rate applied
- If tax paid > tax due, refund

## Child Tax Deduction, Effective 1/1/18



## Sales Tax Changes

Sales tax on RMI Services

Sales tax on M&E

## Clarify Tax Base through Definitions & Exemptions

### RMI Services

- Installation of an item to replace a similar existing item
- Replacement of more than one of a like-kind item
- Examples
  - Floors, carpet, flooring
  - Windows, doors
  - Cabinets, countertops

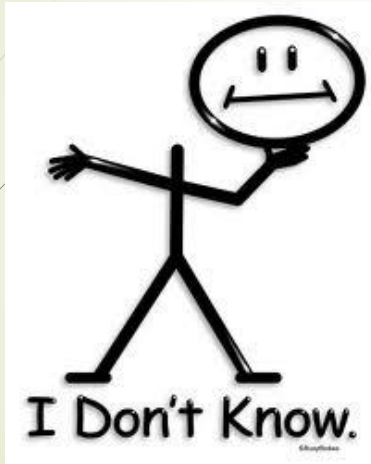
### Capital Improvement

- More defined list
- Lessees = Owners
- Remodeling defined
- General caveat
  - Addition or alteration to real property
  - Permanently affixed or installed to real property
  - That is NOT an activity listed as an RMI service

## Identify the Taxable Transaction

- Transaction is taxable as Repair, Maintenance, and Installation Services unless:
  - Substantiate that the transaction is subject to tax as a real property contract for a capital improvement
  - The transaction is not subject to tax or is exempt from tax
- Substantiation
  - Records that establish the transaction is a Capital Improvement
  - Receipt of an affidavit of Capital Improvement
  - DOR establish guidelines
- Mixed Transaction
  - Percentage increased from 10% to 25%

## Sales Tax Base Expansion Protection Act



- DOR will take no action to assess any tax due for a filing period beginning 3/1/16 and ending before 1/1/18 if conditions met
- Failed to collect sales tax on a retail sale of RMI services or service contract
- Retailer did not receive specific written advice from DOR for transactions at issue

## Three Most Important Take-Aways

- Clarify Tax Base and Taxable Transaction
  - RMI Services
  - Capital Improvement
- [DOR chart of taxable RMI services](#)
  - NOT specific tax advice
  - *Application of tax may differ based on the facts and circumstances of a particular transaction*
- Sales Tax Base Expansion Protection Act
  - [DOR Notice on Sales Tax Base Expansion Protection Act](#)
  - March 1, 2016 through January 1, 2018

## Machinery & Equipment

Mill machinery long taxed at a preferential rate – first as a sales tax, then as an excise tax

Tax policy (B2B) and Economic Development policy


Expanded preferential treatment since 2001 for other equipment to attract or maintain various industries as long as the equipment is capitalized for tax purposes under the Code



## Repeal Article 5F & Exempt from Sales Tax

- Mill machinery
  - Major recycling facility
  - R&D company in the physical, engineering, and life sciences
  - Software publishing company
  - Industrial machinery refurbishing company
  - Large manufacturing and distribution facility
  - Company located at a ports facility for waterborne commerce
- Effective July 1, 2018
  - Revenue Laws Study
  - **ADDS**
    - Repair & replacement parts for a ready-mix concrete mill, regardless of whether the mill is freestanding or affixed to a motor vehicle





## Fulfillment Facilities & Transformative Projects

### Sales Tax Exemption

- ▶ Distribution equipment purchased by a large customer fulfillment facility
- ▶ Effective July 1, 2017
- ▶ Conditions include:
  - ▶ \$100M investment within 5 years
  - ▶ Maintain employment level of 400 people

### Sales Tax Refund

- ▶ Transformative projects
  - ▶ Defined in JDIG
  - ▶ \$4B investment
  - ▶ 5,000 positions
- ▶ Effective July 1, 2017
- ▶ Applies to tax paid on building materials and supplies, fixtures, and equipment that become part of the real property

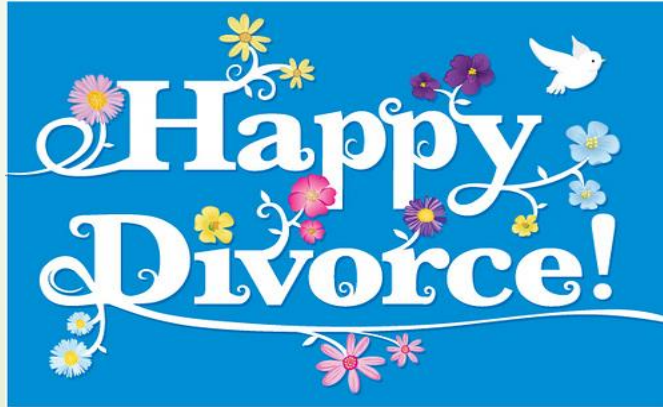


## Other Tax Changes



## Corporate Annual Report Filing

Requires filing of an annual report with the Secretary of State and NOT the Department of Revenue



## Request for Review Changes

- Requires taxpayer to provide explanation for the basis of the Request for Review
- Addresses cases where taxpayer is nonresponsive
  - DOR must make at least two attempts
  - DOR must issue a "notice of inaction"
  - Decision becomes final if no taxpayer response to notice
  - Once final, not subject to further administrative or judicial review; and DOR may begin collection efforts
- Clarifies that DOR may adjust the amount of tax due or a refund owed in response to a Request for Review
- Clarifies that DOR may be an aggrieved party, entitled to judicial review of an administrative decision

## New Crime for Identity Theft re: Taxes

- Effective December 1, 2017
- General crime
  - The person must represent themselves as another person
  - Class of felony greater if person is in possession of identifying information pertaining to three or more persons
- Tax crime
  - Sufficient if the person fraudulently utilizes identifying information of another person in a submission to the Department of Revenue to obtain anything of value, benefit, or advantage for themselves or another
  - Each person's identity obtained, possessed, or used counts as a separate offense
- <http://www.dornc.com/individual/identitytheft.html>

## Property Tax Changes

- Antique Automobile
  - Assessed at lower of true value or \$500
  - Expanded to include "owned directly or indirectly through one or more pass-through entities, by an individual"
- Present Use Value
  - Minimum income requirement from the sale of agricultural products produced from the land
  - Clarifies that grazing fees for livestock, as well as the sale of bees or products derived from beehives other than honey, are considered products produced from the land
- Mobile Classrooms
  - Exempt if occupied by a school and wholly and exclusively used for educational purposes, regardless of the ownership of the property
  - Effective July 1, 2018

## A Few Other Tax Changes

- Check-off Donation on Income Tax Form
  - A taxpayer may direct all or part of an income tax refund to the Cancer Prevention and Control Branch, Division of Public Health, DHHS, to be used for the early detection of breast and cervical cancer
- \$50 Privilege License Tax
  - Expanded to include a massage and bodywork therapist
  - Part of SB 548, *Strengthen Human Trafficking Laws*
- Distillery and Brewery Permits
  - Must be current in all tax filings as a condition to receive and hold permit
  - Commission must confirm tax compliance by October 1 annually
- Individual Income Tax Deduction
  - Amounts deposited into a personal education savings account
  - Effective for taxable years beginning on or after January 1, 2018

## And Lastly, More Sales Tax Changes!

### Sales Tax Exemptions

- Certain aircraft
  - Exempt from tax on RMI services
  - Effective July 1, 2019
- Rare coins, paper currency, and precious metals
  - Effective July 1, 2017
- Wastewater dispersal products
  - Effective July 1, 2017

### Sales Tax Exemption for Farmers

- Conditional exemption certificate
- Valid for taxable year issued and following 2 taxable years
- One year extension
  - For a person who suffers a weather-related disaster that prevents the person from qualifying as a farmer
  - Effective July 1, 2017