

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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BILL DRAFT 2017-BAx-16 [v.22]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
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Short Title: Various Changes To The Revenue Laws.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS.  
3 The General Assembly of North Carolina enacts:

4  
5 **PART I. IRC UPDATE**

6 **SECTION 1.1.** G.S. 105-228.9(b)(1b) reads as rewritten:

7 "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2017,~~  
8 February 9, 2018, including any provisions enacted as of that date that  
9 become effective either before or after that date."

10 **SECTION 1.2.** G.S. 105-130.5 reads as rewritten:

11 **"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

12 (a) The following additions to federal taxable income shall be made in determining  
13 State net income:

14 ...

15 (26) The amount of gain that would be included for federal income tax purposes  
16 without regard to section 1400Z-2(b) of the Code. The adjustment made in  
17 this subsection does not result in a difference in basis of the affected assets  
18 for State and federal income tax purposes. The purpose of this subdivision is  
19 to decouple from the deferral of gains reinvested into an Opportunity Fund  
20 available under federal law.

21 (27) The amount of gain that would be included in the taxpayer's federal taxable  
22 income but for the step-up in basis under section 1400Z-2(c) of the Code.  
23 The purpose of this subdivision is to decouple from the exclusion of gains  
24 from the sale or exchange of an investment in an Opportunity Fund available  
25 under federal law.

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

28 ...

29 (3b) Any amount included in federal taxable income under ~~section 78 or section~~  
30 951–section 78, 951, or 951A of the Code, net of related expenses. For  
31 purposes of this subdivision, the term "related expenses" includes any  
32 amounts deducted under section 250 of the Code.

33 ...



\* 2 0 1 7 - B A X - 1 6 - V - 2 2 \*

1           (29) The amount of gain included in the taxpayer's federal taxable income under  
2 section 1400Z-2(a) of the Code to the extent the same income was included  
3 in the taxpayer's federal taxable income in a prior taxable year under  
4 subdivision (a)(26) of this section. The purpose of this subdivision is to  
5 prevent double taxation of income the taxpayer was previously required to  
6 include in the calculation of State net income.

7           ..."

8           **SECTION 1.3.** 105-153.5 reads as rewritten:

9           **"§ 105-153.5. Modifications to adjusted gross income.**

10           (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may  
11 deduct from adjusted gross income either the standard deduction amount provided in  
12 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)  
13 of this ~~subsection that the taxpayer claimed under the Code.~~ subsection. The deduction amounts  
14 are as follows:

15           ...

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

20           ...

21           b. Mortgage Expense and Property Tax. – The amount allowed as a  
22 deduction for interest paid or accrued during the taxable year under  
23 section 163(h) of the Code with respect to any qualified residence  
24 plus the amount allowed as a deduction for property taxes paid or  
25 accrued on real estate under section 164 of the Code for that taxable  
26 year. For taxable years 2014, 2015, ~~and 2016,~~ 2016, and 2017, the  
27 amount allowed as a deduction for interest paid or accrued during the  
28 taxable year under section 163(h) of the Code with respect to any  
29 qualified residence shall not include the amount for mortgage  
30 insurance premiums treated as qualified residence interest. The  
31 amount allowed under this sub-subdivision may not exceed twenty  
32 thousand dollars (\$20,000). For spouses filing as married filing  
33 separately or married filing jointly, the total mortgage interest and  
34 real estate taxes claimed by both spouses combined may not exceed  
35 twenty thousand dollars (\$20,000). For spouses filing as married  
36 filing separately with a joint obligation for mortgage interest and real  
37 estate taxes, the deduction for these items is allowable to the spouse  
38 who actually paid them. If the amount of the mortgage interest and  
39 real estate taxes paid by both spouses exceeds twenty thousand  
40 dollars (\$20,000), these deductions must be prorated based on the  
41 percentage paid by each spouse. For joint obligations paid from joint  
42 accounts, the proration is based on the income reported by each  
43 spouse for that taxable year.

44           ...

45           ...

46           (c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a  
47 taxpayer must ~~add~~ make the following adjustments to the taxpayer's adjusted gross ~~income any~~  
48 ~~of the following items that are not included in the taxpayer's adjusted gross income:~~

49           (1) For taxable years 2014, 2015, ~~and 2016,~~ 2016, and 2017, the taxpayer must  
50 add the amount excluded from the taxpayer's gross income for the discharge  
51 of qualified principal residence indebtedness under section 108 of the Code.

1 The purpose of this subdivision is to decouple from the income exclusion  
 2 available under federal tax law. If the taxpayer is insolvent, as defined in  
 3 section 108(d)(3) of the Code, then the addition required under this  
 4 subdivision is limited to the amount of discharge of qualified principal  
 5 residence indebtedness excluded from adjusted gross income under section  
 6 108(a)(1)(E) of the Code that exceeds the amount of discharge of  
 7 indebtedness that would have been excluded under section 108(a)(1)(B) of  
 8 the Code.

9 (2) For taxable year 2014, 2015, ~~and 2016, 2016, and 2017~~, the taxpayer must  
 10 add the amount of the taxpayer's deduction for qualified tuition and related  
 11 expenses under section 222 of the Code. The purpose of this subdivision is  
 12 to decouple from the above-the-line deduction available under federal tax  
 13 law.

14 (3) For taxable years beginning on or after 2014, the taxpayer must add the  
 15 amount excluded from the taxpayer's gross income for a qualified charitable  
 16 distribution from an individual retirement plan by a person who has attained  
 17 age 70 1/2 under section 408(d)(8) of the Code. The purpose of this  
 18 subdivision is to decouple from the income exclusion available under federal  
 19 tax law.

20 (4) For taxable years prior to 2014, the taxpayer must add the amount excluded  
 21 from the taxpayer's gross income for amounts received by a wrongfully  
 22 incarcerated individual under section 139F of the Code for which the  
 23 taxpayer took a deduction under former G.S. 105-134.6(b)(14). The purpose  
 24 of this subdivision is to prevent a double benefit where federal tax law  
 25 provides an income exclusion for income for which the State previously  
 26 provided a deduction.

27 (5) The taxpayer must add the amount of gain that would be included for federal  
 28 income tax purposes without regard to section 1400Z-2(b) of the Code. The  
 29 adjustment made in this subsection does not result in a difference in basis of  
 30 the affected assets for State and federal income tax purposes. The purpose of  
 31 this subdivision is to decouple from the deferral of gains reinvested into an  
 32 Opportunity Fund available under federal law.

33 (6) The taxpayer may deduct the amount of gain included in the taxpayer's  
 34 adjusted gross income under section 1400Z-2(a) of the Code to the extent the  
 35 same income was included in the taxpayer's adjusted gross income in a prior  
 36 taxable year under subdivision (5) of this subsection. The purpose of this  
 37 subdivision is to prevent double taxation of income the taxpayer was  
 38 previously required to include in the calculation of North Carolina taxable  
 39 income.

40 (7) The taxpayer must add the amount of gain that would be included in the  
 41 taxpayer's adjusted gross income but for the step-up in basis under section  
 42 1400Z-2(c) of the Code. The purpose of this subdivision is to decouple from  
 43 the exclusion of gains from the sale or exchange of an investment in an  
 44 Opportunity Fund available under federal law.

45 ...".

46 **SECTION 1.4.** G.S. 105-163.1(13) reads as rewritten:

47 "**§ 105-163.1. Definitions.**

48 The following definitions apply in this Article:

49 ...

50 (13) Wages. – The term has the same meaning as in section 3401 of the Code  
 51 ~~except it does not include the amount an employer pays an employee as~~

1 reimbursement for ordinary and necessary expenses incurred by the  
2 employee on behalf of the employer and in the furtherance of the business of  
3 the employer. Code.

4 ...".

5 **SECTION 1.5.** G.S. 105-153.5(c)(4) is repealed.

6 **SECTION 1.6.** G.S. 105-153.8(a) reads as rewritten:

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

9 (1) Every resident ~~required to file an income tax return who~~ for the taxable year  
10 has gross income under the Code that exceeds the standard deduction  
11 amount provided in G.S. 105-153.5(a)(1).

12 (2) Every nonresident individual who meets all of the following requirements:

13 a. Receives during the taxable year gross income that is derived from  
14 North Carolina sources and is attributable to the ownership of any  
15 interest in real or tangible personal property in this State, is derived  
16 from a business, trade, profession, or occupation carried on in this  
17 State, or is derived from gambling activities in this State.

18 b. ~~Is required to file an income tax return for the taxable year under the~~  
19 ~~Code.~~ Has gross income under the Code that exceeds the applicable  
20 standard deduction amount provided in G.S. 105-153.5(a)(1).

21 (3) Any individual whom the Secretary believes to be liable for a tax under this  
22 Part, when so notified by the Secretary and requested to file a return."

23 **SECTION 1.7.** Sections 1.2 through 1.6 of this Part are effective for taxable years  
24 beginning on or after January 1, 2018. The remainder of this Part is effective when it becomes  
25 law.

## 26 **PART II. BUSINESS TAX CHANGES**

27 **SECTION 2.1.(a)** G.S. 105-114(b)(2) reads as rewritten:

28 "(2) Corporation. – A domestic corporation, a foreign corporation, an electric  
29 membership corporation organized under Chapter 117 of the General  
30 Statutes or doing business in this State, or an association that is organized for  
31 pecuniary gain, has capital stock represented by shares, whether with or  
32 without par value, and has privileges not possessed by individuals or  
33 partnerships. The term includes a mutual or capital stock savings and loan  
34 association or building and loan association chartered under the laws of any  
35 state or of the United States. The term includes a limited liability company  
36 or a partnership that elects to be taxed as a corporation under the Code, but  
37 does not otherwise include a limited liability company or a  
38 partnership."

39 **SECTION 2.1.(b)** This section is effective beginning on or after January 1, 2018,  
40 and applies to the calculation of franchise tax reported on the 2017 and later corporate income  
41 tax return.

42 **SECTION 2.2.(a)** G.S. 105-122(b) reads as rewritten:

43 "(b) Determination of Net Worth. – A corporation taxed under this section shall  
44 determine the total amount of its net worth on the basis of the books and records of the  
45 corporation as of the close of its income year. The net worth of a corporation is its total assets  
46 without regard to the deduction for accumulated depreciation, depletion, or amortization less its  
47 total liabilities, computed in accordance with generally accepted accounting principles as of the  
48 end of the corporation's taxable year. If the corporation does not maintain its books and records  
49 in accordance with generally accepted accounting principles, then its net worth is computed in  
50 accordance with the accounting method used by the entity for federal tax purposes so long as  
51

1 the method fairly reflects the corporation's net worth for purposes of the tax levied by this  
 2 section. ~~purposes.~~ A corporation's net worth is subject to the following adjustments:

3 ...

4 ~~(3) A corporation may deduct the cost of treasury stock.~~

5 ...."

6 **SECTION 2.2.(b)** This section is effective beginning on or after January 1, 2018,  
 7 and applies to the calculation of franchise tax reported on the 2017 and later corporate income  
 8 tax return.

9 **SECTION 2.3.** G.S. 105-130.4(l) reads as rewritten:

- 10 "(l) (1) The sales factor is a fraction, the numerator of which is the total sales of the  
 11 corporation in this State during the income year, and the denominator of  
 12 which is the total sales of the corporation everywhere during the income  
 13 year. Notwithstanding any other provision under this Part, the receipts from  
 14 any casual sale of property shall be excluded from both the numerator and  
 15 the denominator of the sales factor. Where a corporation is not taxable in  
 16 another state on its apportionable income but is taxable in another state only  
 17 because of nonapportionable income, all sales shall be treated as having been  
 18 made in this State.
- 19 (2) Sales of tangible personal property are in this State if the property is  
 20 received in this State by the purchaser. In the case of delivery of goods by  
 21 common carrier or by other means of transportation, including transportation  
 22 by the purchaser, the place at which the goods are ultimately received after  
 23 all transportation has been completed shall be considered as the place at  
 24 which the goods are received by the purchaser. Direct delivery into this State  
 25 by the taxpayer to a person or firm designated by a purchaser from within or  
 26 without the State shall constitute delivery to the purchaser in this State.
- 27 (3) Other sales are in this State if any of the following occur:
- 28 a. The receipts are from real or tangible personal property located in  
 29 this State; ~~or State.~~
- 30 b. The receipts are from intangible property and are received from  
 31 sources to the extent the intangible property is used within this State;  
 32 ~~or State.~~
- 33 c. The receipts are from services and the income-producing activities  
 34 are in this State. For the purposes of this section, an  
 35 income-producing activity means an activity directly performed by  
 36 the taxpayer or its' agents for the ultimate purpose of generating the  
 37 sale of the service, and includes receipts from services sold as part of,  
 38 or in connection with, the sale of tangible property located in this  
 39 State."

40 **SECTION 2.4.** G.S. 105-130.5(a) reads as rewritten:

41 "**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

42 (a) The following additions to federal taxable income shall be made in determining  
 43 State net income:

44 ...

- 45 (10) The total amounts allowed under this Chapter during the taxable year as a  
 46 credit against the taxpayer's income tax. ~~This subdivision does not apply to a~~  
 47 ~~credit allowed under G.S. 105-130.47.~~ A corporation that apportions part of  
 48 its income to this State shall make the addition required by this subdivision  
 49 after it determines the amount of its income that is apportioned and allocated  
 50 to this State and shall not apply to a credit taken under this Chapter the

1 apportionment factor used by it in determining the amount of its apportioned  
2 income.

3 ...

4 (17) ~~The amount excluded from gross income under section 199 of the Code.~~

5 ...

6 (20) ~~The amount of a donation made to a nonprofit organization or a unit of State  
7 or local government for which a credit is claimed under G.S. 105-129.16H.~~

8 ...."

9 **SECTION 2.5.** G.S. 105-130.20 reads as rewritten:

10 **"§ 105-130.20. Federal ~~corrections~~ corrections and amended returns.**

11 (a) **Federal corrections.** – If a taxpayer's federal taxable income or a federal tax credit  
12 ~~that is changed or corrected by the Commissioner of Internal Revenue or other officer of the~~  
13 United States or other competent authority, and the change or correction affects the amount of  
14 State tax payable is corrected or otherwise determined by the federal government, payable, the  
15 taxpayer must, must file an income tax return reflecting each change or correction from a  
16 federal determination within six months after being notified of the correction or final  
17 determination by the federal government, file an income tax return with the Secretary reflecting  
18 the corrected or determined taxable income each change or correction. The Secretary must  
19 propose an assessment for any additional tax due from the taxpayer as provided in Article 9 of  
20 this Chapter. The Secretary must refund any overpayment of tax as provided in Article 9 of this  
21 Chapter. ~~A taxpayer that fails to comply with this section is subject to the penalties in~~  
22 G.S. 105-236 and forfeits its rights to any refund due by reason of the determination. A federal  
23 determination has the same meaning as in G.S. 105-241.10.

24 (b) **Amended returns.** – The following applies to amended returns filed by a taxpayer  
25 with the Commissioner of Internal Revenue:

26 (1) If the amended return contains an adjustment that would increase the amount  
27 of State tax payable under this Part, then notwithstanding the provisions of  
28 G.S. 105-241.8(a), the taxpayer must file within six months thereafter an  
29 amended return with the Secretary.

30 (2) If the amended return contains an adjustment that would decrease the  
31 amount of State tax payable under this Part, the taxpayer may file an  
32 amended return with the Secretary within the provisions of G.S. 105-241.6.

33 (c) **Penalties.** – A taxpayer that fails to comply with this section is subject to the  
34 penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the  
35 determination."

36 **SECTION 2.6.(a)** G.S. 105-228.3 is amended by adding the following new  
37 subdivision:

38 "(1b) Foreign captive insurance company. – A captive insurance company as  
39 defined in G.S. 58-10-340(9), except that such company is not formed or  
40 licensed under the laws of this State but is formed and licensed under the  
41 laws of any jurisdiction within the United States other than this State."

42 **SECTION 2.6.(b)** G.S. 105-228.4A reads as rewritten:

43 **"§ 105-228.4A. Tax on captive insurance companies.**

44 (a) **Tax Levied.** – A tax is levied in this section on a captive insurance company doing  
45 business in this State. In the case of a branch captive insurance company, the tax levied in this  
46 section applies only to the branch business of the company. Two or more captive insurance  
47 companies under common ownership and control are taxed under this section as a single  
48 captive insurance company. The tax levied in this section does not apply to a foreign captive  
49 insurance company.

50 (b) **Other Taxes.** – A captive insurance company that is subject to the tax levied by this  
51 section and a foreign captive insurance company is are not subject to any of the following:

- 1 (1) Franchise taxes imposed by Article 3 of this Chapter.  
 2 (2) Income taxes imposed by Article 4 of this ~~Chapter~~Chapter, subject to the  
 3 provisions of G.S. 105-130.5A.  
 4 (3) Local privilege taxes or local taxes computed on the basis of gross  
 5 premiums.  
 6 (4) The insurance regulatory charge imposed by G.S. 58-6-25.

7 ...."

8 **SECTION 2.6.(c)** G.S. 105-228.5(g) reads as rewritten:

9 "(g) Exemptions. – This section does not apply to any of the following:

- 10 (1) A farmers' mutual assessment fire insurance companies or to company.  
 11 (2) A fraternal orders or societies that do order or society that does not operate  
 12 for a profit and ~~do~~ does not issue policies on any person except members.  
 13 (3) This section does not apply to a A captive insurance company taxed under  
 14 G.S. 105-228.4A.  
 15 (4) A foreign captive insurance company that is licensed in and taxed on its  
 16 gross premiums in a jurisdiction within the United States other than this  
 17 State."

18 **SECTION 2.7.(a)** Section 4 of S.L. 2017-151 is re-enacted.

19 **SECTION 2.7.(b)** This section is effective when it becomes law and applies to  
 20 taxable years beginning on or after July 1, 2018.

### 21 **PART III. PERSONAL TAX CHANGES**

22 **SECTION 3.1.(a)** G.S. 105-129.39 reads as rewritten:

#### 23 **"§ 105-129.39. Sunset.**

24 This Article expires for qualified rehabilitation expenditures and rehabilitation expenses  
 25 incurred on or after January 1, 2015. For qualified rehabilitation expenditures and rehabilitation  
 26 expenses incurred prior to January 1, 2015, this Article expires for property not placed in  
 27 service by January 1, 2023."

28 **SECTION 3.1.(b)** G.S. 105-129.110 reads as rewritten:

#### 29 **"§ 105-129.110. Sunset.**

30 This Article expires for qualified rehabilitation expenditures and rehabilitation expenses  
 31 incurred on or after January 1, 2020. For qualified rehabilitation expenditures and rehabilitation  
 32 expenses incurred prior to January 1, 2020, this Article expires for property not placed in  
 33 service by January 1, 2028."

34 **SECTION 3.2.** G.S. 105-159 reads as rewritten:

#### 35 **"§ 105-159. Federal ~~corrections~~ corrections and amended returns.**

36 (a) **Federal corrections.** – If a taxpayer's adjusted gross income, filing status, personal  
 37 exemptions, standard deduction, itemized deductions, or federal tax credit ~~that are~~ changed or  
 38 corrected by the Commissioner of Internal Revenue or other officer of the United States or  
 39 competent authority, and the change or correction affects the amount of State tax payable is  
 40 corrected or otherwise determined by the federal government, payable, the taxpayer must, must  
 41 file an income tax return reflecting each change or correction from a federal determination  
 42 within six months after being notified of the correction or final determination by the federal  
 43 government, file an income tax return with the Secretary reflecting the corrected or determined  
 44 adjusted gross income or federal tax credit that affects the amount of State tax payable. each  
 45 change or correction. The Secretary must propose an assessment for any additional tax due  
 46 from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any  
 47 overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply  
 48 with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund  
 49 due by reason of the determination. A federal determination has the same meaning as defined in  
 50 G.S. 105-241.10.

1 (b) **Amended returns.** – The following applies to amended returns filed by a taxpayer  
2 with the Commissioner of Internal Revenue:

3 (1) If the amended return contains an adjustment that would increase the amount  
4 of State tax payable under this Part, then notwithstanding the provisions of  
5 G.S. 105-241.8(a), the taxpayer must file within six months thereafter an  
6 amended return with the Secretary.

7 (2) If the amended return contains an adjustment that would decrease the  
8 amount of State tax payable under this Part, the taxpayer may file an  
9 amended return with the Secretary within the provisions of G.S. 105-241.6.

10 (c) **Penalties.** – A taxpayer that fails to comply with this section is subject to the  
11 penalties in G.S. 105-236 and forfeits the right to any refund due by reason of the  
12 determination."

13 **SECTION 3.3.** G.S. 105-160.3(b) reads as rewritten:

14 "(b) The tax credits allowed under G.S. 105-153.9 ~~and G.S. 105-153.10~~ may not be  
15 claimed by an estate or trust."

16 **SECTION 3.4.** G.S. 105-160.8 reads as rewritten:

17 "**§ 105-160.8. Federal corrections.**

18 For purposes of this Part, the provisions of G.S. 105-159 ~~requiring an individual to report~~  
19 ~~the correction or determination of taxable income by the federal government~~ apply to  
20 fiduciaries required to file returns for estates and trusts."

21 **SECTION 3.5.** G.S. 105-163.6A reads as rewritten:

22 "**§ 105-163.6A. Federal corrections.**

23 If the amount of taxes an employer is required to withhold and pay under the Code is  
24 ~~changed or corrected, corrected or otherwise determined by the federal government, the~~  
25 ~~employer must, within six months after being notified of the correction or final determination~~  
26 ~~by the federal government, file a return with the Secretary reflecting the corrected or~~  
27 ~~determined amount. The Secretary must propose an assessment for any additional tax due from~~  
28 ~~the employer as provided in Article 9 of this Chapter. If there has been an overpayment of the~~  
29 ~~tax, the Secretary must either refund the overpayment to the employer in accordance with G.S.~~  
30 ~~105-163.9 or credit the amount of the overpayment to the individual in accordance with G.S.~~  
31 ~~105-163.10. An employer who fails to comply with this section is subject to the penalties in~~  
32 ~~G.S. 105-236 and forfeits the right to any refund due by reason of the determination. the~~  
33 provisions of G.S. 105-159 apply to employers, pension payers, and every other payer required  
34 to withhold taxes under this Article. Failure of an employer to comply with this section does  
35 not, however, affect an individual's right to a credit under G.S. 105-163.10."

36 **SECTION 3.6.** G.S. 105-163.7(b) reads as rewritten:

37 "(b) ~~Report-Informational Return~~ to Secretary. – Every employer shall annually file an  
38 ~~annual report-informational return~~ with the Secretary that contains the information given on  
39 each of the employer's written statements to an employee. The Secretary may require additional  
40 information to be included on the ~~report-informational return~~, provided the Secretary has given  
41 a minimum of 90 days' notice of the additional information required. The ~~annual report~~  
42 informational return is due on or before January 31 of the succeeding year and must be filed in  
43 an electronic format as prescribed by the Secretary. If the employer terminates its business or  
44 permanently ceases paying wages during the calendar year, the informational return must be  
45 filed within 30 days of the last payment of remuneration. The Secretary may, upon a showing  
46 of good cause, waive the electronic submission requirement. The ~~report-informational return~~  
47 required by this subsection is in lieu of the report required by G.S. 105-154."

48 **SECTION 3.7.(a)** G.S. 105-241.8(b) is amended by adding a new subdivision to  
49 read:

50 "(b) Exceptions. – The exceptions to the general statute of limitations for proposing an  
51 assessment are as follows:

1 ...  
2 (1a) **Federal amended return.** – If a taxpayer files a return as a result of filing a  
3 federal amended return and the return is filed within the time required by  
4 this Subchapter, the period for proposing an assessment of any tax due is one  
5 year after the return is filed or three years after the original return was filed  
6 or due to be filed, whichever is later. If the taxpayer does not file the return  
7 within the required time, the period for proposing an assessment of any tax  
8 due is three years after the date the federal amended return was filed with the  
9 Commissioner of Internal Revenue.

10 ...."

11 **SECTION 3.7.(b)** This section is effective when it becomes law and applies to  
12 amended returns filed on or after that date.

13 **SECTION 3.8.** G.S. 105-241.10 reads as rewritten:

14 "**§ 105-241.10. Limit on refunds and assessments after a federal determination.**

15 The limitations in this section apply when a taxpayer files a timely return reflecting a  
16 federal determination that affects the amount of State tax payable and the general statute of  
17 limitations for requesting a refund or proposing an assessment of the State tax has expired. A  
18 federal determination is a change or correction or final determination by the federal  
19 government of the amount of a federal tax ~~due~~. due arising from an audit by the Commissioner  
20 of Internal Revenue. A return reflecting a federal determination is timely if it is filed within the  
21 time required by G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. The  
22 limitations are:

- 23 (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of  
24 adjustments related to the federal determination.  
25 (2) Assessment. – A taxpayer is liable for additional tax only if the additional  
26 tax is the result of adjustments related to the federal determination. A  
27 proposed assessment may not include an amount that is outside the scope of  
28 this liability."

29 **SECTION 3.9.** G.S. 105-251.2 reads as rewritten:

30 "(a) Occupational Licensing Board. – An occupational licensing board must give  
31 information to the Secretary when the Secretary requests the information. The Secretary may  
32 not request the information more than one time per calendar year. The Secretary may request  
33 the board to provide on a return, a report, or otherwise, a licensee's name, license number, tax  
34 identification number, business address, and any other information pertaining to the licensee in  
35 possession of the board that the Secretary deems necessary to determine the licensee's  
36 compliance with this Chapter. For purposes of this subsection, the term "occupational licensing  
37 board" has the same meaning as defined in G.S. 93B-1.

38 (b) Alcohol Vendor. – An alcohol vendor must give information to the Secretary when  
39 the Secretary requests the information. The Secretary may not request the information more  
40 than one time per calendar year. The Secretary may request the alcohol vendor to provide on a  
41 return, a report, or otherwise, for a permittee to which the alcohol vendor provides alcohol, a  
42 permittee's name, license number, and business address and any other information pertaining to  
43 the permittee in possession of the alcohol vendor that the Secretary deems necessary to  
44 determine the ~~permittee's~~ permittee's compliance with this Chapter. This subsection applies to  
45 the following alcohol vendors:

- 46 (1) An ABC store in the ABC system, as defined in G.S. 18B-101.  
47 (2) A wine wholesaler, as defined in G.S. 18B-1201.  
48 (3) A wholesaler, as defined in G.S. 18B-1301.  
49 (4) The holder of an unfortified winery permit, a fortified winery permit, a  
50 brewery permit, or a distillery permit under G.S. 18B-1100.

1 (c) Payment Settlement Entity. – For any year in which a payment settlement entity is  
2 required to make a return pursuant to section 6050W of the Code, the entity shall submit the  
3 information in the return to the Secretary at the time the return is made. For purposes of this  
4 subsection, the term "payment settlement entity" has the same meaning as provided in section  
5 6050W of the Code.

6 (c1) **Franchisor.** – A franchisor, as defined by Federal Trade Commission regulations,  
7 with at least one franchisee located within North Carolina must annually file an informational  
8 return with the Secretary that contains information requested by the Secretary. The  
9 informational return is due by March 31 of each succeeding year and must be filed in an  
10 electronic format as prescribed by the Secretary.

11 (d) Electronic Format. – All reports submitted to the Department of Revenue under this  
12 section shall be in an electronic format as requested by the Secretary. Any report not timely  
13 filed under this section is subject to a penalty of one thousand dollars (\$1,000)."

14 **SECTION 3.10.(a)** G.S. 115C-595(c) is repealed.

15 **SECTION 3.10.(b)** This section is effective for taxable years beginning on or after  
16 January 1, 2018.

## 18 PART IV. SALES AND USE TAX CHANGES

19 **SECTION 4.1.** G.S. 105-164.3 reads as rewritten:

### 20 "§ 105-164.3. Definitions.

21 The following definitions apply in this Article:

22 ...

23 (11d) Freestanding appliance. – A machine commonly thought of as an appliance  
24 operated by gas or electric current. Examples include ~~installation of~~ a  
25 dishwasher, washing machine, clothes dryer, refrigerator, freezer,  
26 microwave, and range, regardless of whether the range is slide-in or drop-in.

27 ...

28 (20b) Mixed transaction contract. – A contract that includes both a real property  
29 contract for a capital improvement and a repair, maintenance, and  
30 installation service for real property that is not related to the capital  
31 improvement.

32 ...

33 (33c) Qualifying datacenter. – A datacenter that satisfies each of the following  
34 conditions:

35 a. The datacenter certifies that it satisfies or will satisfy the wage  
36 standard for the development tier area or zone in which the  
37 datacenter is located. There is no wage standard for a development  
38 tier one area. If an urban progress zone or an agrarian growth zone is  
39 not in a development tier one area, then the wage standard for that  
40 zone is an average weekly wage that is at least equal to ninety  
41 percent (90%) of the lesser of the average wage for all insured  
42 private employers in the State and the average wage for all insured  
43 private employers in the county in which the datacenter is located.  
44 The wage standard for a development tier two area or a development  
45 tier three area is an average weekly wage that is at least equal to one  
46 hundred ten percent (110%) of the lesser of the average wage for all  
47 insured private employers in the State and ninety percent (90%) of  
48 the average wage for all insured private employers in the county in  
49 which the datacenter is located.

50 b. The Secretary of Commerce has made a written determination that at  
51 least seventy-five million dollars (\$75,000,000) in private funds has

- 1                    been or will be invested by one or more owners, users, or tenants of  
 2                    the datacenter within five years of the date the owner, user, or tenant  
 3                    of the datacenter makes its first real or tangible property investment  
 4                    in the datacenter on or after January 1, 2012. Investments in real or  
 5                    tangible property in the datacenter made prior to January 1, 2012,  
 6                    may not be included in the investment required by this subdivision.
- 7                    c.       The datacenter certifies that it provides or will provide health  
 8                    insurance for all of its full-time ~~employees~~ employees as long as the  
 9                    datacenter operates. The datacenter provides health insurance if it  
 10                    pays or will pay at least fifty percent (50%) of the premiums for  
 11                    health care coverage that equals or exceeds the minimum provisions  
 12                    of the basic health care plan of coverage recommended by the Small  
 13                    Employer Carrier Committee pursuant to G.S. 58-50-125.
- 14                    ...
- 15                    (33l) Repair, maintenance, and installation services. – The term includes the  
 16                    activities listed in this subdivision and applies to tangible personal property,  
 17                    motor vehicle, digital property, and real property. The term does not include  
 18                    services used to fulfill a real property contract taxed in accordance with  
 19                    G.S. 105-164.4H:
- 20                    a.       To keep or attempt to keep property or a motor vehicle in working  
 21                    order to avoid breakdown and prevent deterioration or repairs.  
 22                    Examples include to clean, wash, or polish property.
- 23                    b.       To calibrate, refinish, restore, or attempt to calibrate, refinish, or  
 24                    restore property or a motor vehicle to proper working order or good  
 25                    condition. This activity may include replacing or putting together  
 26                    what is torn or broken.
- 27                    c.       To troubleshoot, identify, or attempt to identify the source of a  
 28                    problem for the purpose of determining what is needed to restore  
 29                    property or a motor vehicle to proper working order or good  
 30                    condition. The term includes activities that may lead to the issuance  
 31                    of an inspection report.
- 32                    d.       To install, apply, connect, adjust, or set into position tangible  
 33                    personal property, digital property, or a motor vehicle. The term  
 34                    includes floor refinishing and the installation of carpet, flooring,  
 35                    floor coverings, windows, doors, cabinets, countertops, and other  
 36                    installations where the item being installed may replace a similar  
 37                    existing item. The replacement of more than one of a like-kind item,  
 38                    such as replacing one or more windows, is a single repair,  
 39                    maintenance, and installation service. The term does not include an  
 40                    installation defined as a capital improvement under subdivision  
 41                    (2c)d. of this section.
- 42                    e.       To inspect or monitor property or a motor ~~vehicle, but does not~~  
 43                    ~~include security or similar monitoring services for real~~  
 44                    ~~property-vehicle.~~
- 45                    ...
- 46                    (37) Sales price. – The total amount or consideration for which tangible personal  
 47                    property, digital property, or services are sold, leased, or rented. The  
 48                    consideration may be in the form of cash, credit, property, or services. The  
 49                    sales price must be valued in money, regardless of whether it is received in  
 50                    money.

- 1 a. The term includes all of the ~~following~~ following without any
- 2 deduction:
- 3 1. The retailer's cost of the property sold.
- 4 2. The cost of materials used, labor or service costs, interest,
- 5 losses, all costs of transportation to the retailer, all taxes
- 6 imposed on the retailer, and any other expense of the retailer.
- 7 3. Charges by the retailer for any services necessary to complete
- 8 the sale.
- 9 4. Delivery charges.
- 10 5. Installation charges.
- 11 6. Repealed by Session Laws 2007-244, s. 1, effective October
- 12 1, 2007.
- 13 7. Credit for trade-in.
- 14 8. Discounts that are reimbursable by a third party and can be
- 15 determined at the time of sale through any of the following:
- 16 I. Presentation by the consumer of a coupon or other
- 17 documentation.
- 18 II. Identification of the consumer as a member of a group
- 19 eligible for a discount.
- 20 III. The invoice the retailer gives the consumer.
- 21 b. The term does not include any of the following:
- 22 1. Discounts that are not reimbursable by a third party, are
- 23 allowed by the retailer, and are taken by a consumer on a sale.
- 24 2. Interest, financing, and carrying charges from credit extended
- 25 on the sale, if the amount is separately stated on the invoice,
- 26 bill of sale, or a similar document given to the consumer.
- 27 3. Any taxes imposed directly on the consumer that are
- 28 separately stated on the invoice, bill of sale, or similar
- 29 document given to the consumer.
- 30 ...
- 31 (38b) Service contract. – A contract where the obligor under the contract agrees to
- 32 maintain, monitor, inspect, repair, or provide another service included in the
- 33 definition of repair, maintenance, and installation ~~service~~ services to digital
- 34 property, tangible personal property, or real property for a period of time or
- 35 some other defined measure. The term does not include a single repair,
- 36 maintenance, or installation service, but does include a contract where the
- 37 obligor may provide a service included in the definition of repair,
- 38 maintenance, and installation services as a condition of the contract. The
- 39 term includes a service contract for a pool, fish tank, or similar aquatic
- 40 feature and a home warranty. Examples include a warranty agreement other
- 41 than a manufacturer's warranty or dealer's warranty provided at no charge to
- 42 the purchaser, an extended warranty agreement, a maintenance agreement, a
- 43 repair agreement, or a similar agreement or contract.
- 44 ...
- 45 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as
- 46 amended as of ~~May 11, 2017~~ December 19, 2017.
- 47 ...
- 48 (49) Use. – The exercise of any right, power, or dominion whatsoever over
- 49 tangible personal property, digital property, or a service by the purchaser of
- 50 the property or service. The term includes withdrawal from storage,
- 51 distribution, installation, affixation to real or personal property, and

1 exhaustion or consumption of the property or service by the owner or  
2 purchaser. The term does not include ~~the following:~~

- 3 a. ~~A sale of property or a service in the regular course of business.~~  
4 b. ~~A purchaser's use of tangible personal property or digital property in~~  
5 ~~any of the circumstances that would exclude the storage of the~~  
6 ~~property from the definition of "storage" in subdivision (44) of this~~  
7 ~~section.~~

8 ...."

9 **SECTION 4.2.** G.S. 105-164.4(a) reads as rewritten:

10 **"§ 105-164.4. Tax imposed on retailers and certain facilitators.**

11 (a) A privilege tax is imposed on a retailer engaged in business in the State at the  
12 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The  
13 general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as  
14 follows:

- 15 (1) The general rate of tax applies to the sales price of each item or article of  
16 tangible personal property that is sold at retail and is not subject to tax under  
17 another subdivision in this section. A sale of a freestanding appliance is a  
18 retail sale of tangible personal property. This subdivision applies to repair,  
19 maintenance, and installation services to tangible personal property. This  
20 subdivision does not apply to repair, maintenance, and installation services  
21 for real property; these services are taxable under subdivision (16) of this  
22 subsection.

- 23 (1a) The general rate applies to the sales price of each of the following items sold  
24 at retail, including all accessories attached to the item when it is delivered to  
25 the ~~purchaser~~; purchaser. This subdivision applies to repair, maintenance, and  
26 installation services to one of these items. The items taxable under this  
27 subdivision are as follows:

- 28 a. A manufactured home.  
29 b. A modular home. The sale of a modular home to a modular  
30 homebuilder is considered a retail sale, no matter that the modular  
31 home may be used to fulfill a real property contract. A person who  
32 sells a modular home at retail is allowed a credit against the tax  
33 imposed by this subdivision for sales or use tax paid to another state  
34 on tangible personal property incorporated in the modular home. The  
35 retail sale of a modular home occurs when a modular home  
36 manufacturer sells a modular home to a modular homebuilder or  
37 directly to the end user of the modular home.  
38 c. An aircraft. The maximum tax is two thousand five hundred dollars  
39 (\$2,500) per article. The maximum tax does not apply to repair,  
40 maintenance, and installation services, but the use tax exemption in  
41 G.S. 105-164.27A(a3) may apply to these services.  
42 d. A qualified jet engine.

- 43 (1b) The rate of three percent (3%) applies to the sales price of each boat  
44 sold at retail, including all accessories attached to the boat when it is  
45 delivered to the purchaser. The maximum tax is one thousand five  
46 hundred dollars (\$1,500) per article. The maximum tax does not  
47 apply to repair, maintenance, and installation services, but the use tax  
48 exemption in G.S. 105-164.27A(a3) may apply to these services.

49 ...

- 50 (6b) The general rate applies to the sales price of digital property that is sold at  
51 retail and that is listed in this subdivision, is delivered or accessed

electronically, is not considered tangible personal property, and would be taxable under this Article if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has a right to use it permanently or to use it without making continued payments. This subdivision applies to repair, maintenance, and installation services to digital property. The tax does not apply to a service that is taxed under another subdivision of this subsection or to an information service. The following property is subject to tax under this subdivision:

...

...

- (16) The general rate applies to the sales price of or the gross receipts derived from repair, maintenance, and installation services for real property and generally includes any tangible personal property or digital property that becomes a part of or is applied to a purchaser's property. A mixed transaction contract and a real property contract are taxed in accordance with G.S. 105-164.4H."

**SECTION 4.3.** G.S. 105-164.4B reads as rewritten:

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

(a) General Principles. – The following principles apply in determining where to source the sale of a ~~product~~ product for the seller's purpose and do not alter the application of the tax imposed under G.S. 105-164.6. Except as otherwise provided in this section, a service is sourced where the purchaser can potentially first make use of the service. These principles apply regardless of the nature of the product, except as otherwise noted in this section:

...

(i) Computer Software Renewal. – The gross receipts derived from the renewal of a service contract for prewritten software is generally sourced pursuant to subdivision (a) of this section. However, sourcing the renewal to an address where the purchaser received the underlying prewritten software does not constitute bad faith provided the seller has not received information from the purchaser that indicates a change in the location of the underlying software."

**SECTION 4.4.** G.S. 105-164.4G(e) reads as rewritten:

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

- (1) An amount paid solely for the right to ~~participate~~ participate, other than to be a spectator, 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 lifetime 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.
- (6) An amount paid for the right to participate, other than to be a spectator, in the following activities:
  - a. Rock climbing, skating, skiing, snowboarding, sledding, zip lining or other similar activities.
  - b. Instruction classes related to the items included in sub-subdivision a. of this subdivision.
  - c. Riding on a carriage, boat, train, plane, horse, chairlift, or other similar rides.
  - d. Amusement rides, including a waterslide."

1           **SECTION 4.5.** G.S. 105-164.4I reads as rewritten:

2   "**§ 105-164.4I. Service contracts.**

3       ...

4       (e) ~~Exceptions.—The tax imposed by this section does not apply to any of the~~  
5 ~~following:~~

6           (1) ~~A security or similar monitoring contract for real property.~~

7           (2) ~~A contract to provide a certified operator for a wastewater system.~~

8       ...."

9           **SECTION 4.6.** G.S. 105-164.6(b) reads as rewritten:

10       "(b) **Liability.** – The tax imposed by this section is payable by the person who purchases,  
11 leases, or rents tangible personal property or digital property or who purchases a service. If the  
12 property purchased becomes a part of real property in the State, the real property contractor, the  
13 retailer-contractor, the subcontractor, the lessee, and the owner are jointly and severally liable  
14 for the tax, except as provided in G.S. ~~105-164.4H(a)~~105-164.4H(a1) regarding receipt of an  
15 affidavit of capital improvement. The liability of a real property contractor, a  
16 retailer-contractor, a subcontractor, a lessee, or an owner who did not purchase the property is  
17 satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

18           **SECTION 4.7.(a)** Part 2 of Article 5 of Chapter 105 of the General Statutes is  
19 amended by adding a new section to read:

20   "**§ 105-164.11B. Recover sales tax paid.**

21       A retailer who pays sales and use tax on property or services and subsequently resells the  
22 property or services at retail, without the property or service being used by the retailer, may  
23 recover the sales or use tax originally paid to a seller as provided in this section. A retailer  
24 entitled to recover tax under this section may reduce taxable receipts by the taxable amount of  
25 the purchase price of the property or services resold for the period in which the retail sale  
26 occurs. A recovery of tax allowed under this section is not an overpayment of tax and where  
27 such recovery is taken, a refund of the tax originally paid should not be requested pursuant to  
28 the authority under G.S. 105-164.11. Any amount for tax recovered under this section in excess  
29 of tax due for a reporting period under this Article is not subject to refund. Any tax recovered  
30 under this section may be carried forward to a subsequent reporting period and taken as an  
31 adjustment to taxable receipts. The records of the retailer must clearly reflect and support the  
32 adjustment to taxable receipts for the period in which the adjustment is made."

33           **SECTION 4.7.(b)** G.S. 105-164.11(b) reads as rewritten:

34       "(b) **Refund Procedures First Remedy.** – The first course of remedy available to  
35 purchasers seeking a refund of over-collected sales or use taxes from the seller are the customer  
36 refund procedures provided in this Chapter or otherwise provided by administrative rule,  
37 bulletin, or directive on the law issued by the Secretary. Where a person recovers tax under  
38 G.S. 105-164.11B, a refund or credit under this section is not allowed by the Secretary."

39           **SECTION 4.8.** G.S. 105-164.13 reads as rewritten:

40   "**§ 105-164.13. Retail sales and use tax.**

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

44       ...

45       (5e) Sales of mill machinery or mill machinery parts or accessories to any of the  
46 following entities listed in this subdivision. For purposes of this subdivision,  
47 the term "accessories" does not include electricity. The entities are:

48           a. A manufacturing industry or plant. A manufacturing industry or plant  
49 does not include (i) a delicatessen, cafe, cafeteria, restaurant, or  
50 another similar retailer that is principally engaged in the retail sale of

- 1 foods prepared by it for consumption on or off its premises or (ii) a  
 2 production company.
- 3 b. A contractor or subcontractor if the purchase is for use in the  
 4 performance of a contract with a manufacturing industry or plant.
- 5 c. A subcontractor if the purchase is for use in the performance of a  
 6 contract with a general contractor that has a contract with a  
 7 manufacturing industry or plant.
- 8 ...
- 9 (9) Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints,  
 10 parts, accessories, and supplies sold to any of the following:
- 11 a. The holder of a standard commercial fishing license issued under  
 12 G.S. 113-168.2 for principal use in commercial fishing operations.
- 13 b. The holder of a shellfish license issued under G.S. 113-169.2 for  
 14 principal use in commercial shellfishing operations.
- 15 c. The operator of a for-hire ~~boat, vessel,~~ as defined in G.S. 113-174,  
 16 for principal use in the commercial use of the boat.
- 17 ...
- 18 (13) ~~All of the following drugs, drugs listed in this subdivision, including their~~  
 19 ~~packaging materials and any instructions or information about the drugs~~  
 20 ~~included in the package with them:them. This subdivision does not apply to~~  
 21 ~~pet food or feed for animals. The drugs exempt under this subdivision are as~~  
 22 ~~follows:~~
- 23 a. Drugs required by federal law to be dispensed only on prescription.
- 24 b. Over-the-counter drugs sold on prescription. This sub-subdivision  
 25 does not apply to purchases of over-the-counter drugs by hospitals  
 26 and other medical facilities for use and treatment of patients.
- 27 c. Insulin.
- 28 ...
- 29 (15) Accounts of purchasers, representing taxable sales, on which the tax  
 30 imposed by this Article has been paid, that are found to be worthless and  
 31 actually charged off for income tax purposes may, at corresponding periods,  
 32 be deducted from gross sales. In the case of a municipality that sells  
 33 electricity, the account may be deducted if it meets all the conditions for  
 34 charge-off that would apply if the municipality were subject to income tax.  
 35 Any accounts deducted pursuant to this subdivision must be added to gross  
 36 sales if afterwards collected. For purposes of this exemption, a worthless  
 37 account of a purchaser is a "bad debt" as allowed under section 166 of the  
 38 Code. The amount calculated pursuant to section 166 of the Code must be  
 39 adjusted to exclude: financing charges or interest, sales or use taxes charged  
 40 on the sales price, uncollectible amounts on property that remains in the  
 41 possession of the seller until the full purchase price is paid, expenses  
 42 incurred in attempting to collect any debt, and repossessed property.
- 43 ...
- 44 (61a) The sales price of or the gross receipts derived from the repair, maintenance,  
 45 and installation services and service contracts listed in this subdivision are  
 46 exempt from tax. Except as otherwise provided in this subdivision, property  
 47 and services used to fulfill either a repair, maintenance, or installation  
 48 service or a service contract exempt from tax under this subdivision are  
 49 taxable. The list of repair, maintenance, and installation services and service  
 50 contracts exempt from tax under this subdivision is as follows:

a. ~~An~~ A service and a service contract for an item exempt from tax under this Article. ~~Article, except as otherwise provided in this subdivision.~~ Property and services used to fulfill a service or contract exempt under this sub-subdivision are exempt from tax under this Article. This exemption does not apply to water for a pool, fish tank, or similar aquatic feature or to a motor vehicle, except as provided under subdivision (62a) of this section. ~~section and fees under sub-subdivision b. of this subdivision.~~

p. A security or similar monitoring contract for real property. The exemption provided in this subdivision does not apply to charges for repair, maintenance, and installation services to repair security, alarm, and other similar monitoring systems for real property.

q. A contract to provide a certified operator for a wastewater system.

(70) Gross receipts derived from a rental of an accommodation are exempt as provided in G.S. 105-164.4F."

**SECTION 4.9.(a)** G.S. 105-164.13E is amended by adding a new subsection to read:

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

(a) Exemption. – A qualifying farmer is a person who has an annual income from farming operations for the preceding taxable year of ten thousand dollars (\$10,000) or more or who has an average annual income from farming operations for the three preceding taxable years of ten thousand dollars (\$10,000) or more. For purposes of this section, the term "income from farming operations" means sales plus any other amounts treated as gross income under the Code 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 taxable years or ceases to engage in farming operations, whichever comes first.

~~The following tangible personal property, digital property, and services are exempt from sales and use tax if~~ Except as otherwise provided in this section, the items exempt under this section must be purchased by a qualifying farmer and for use used by the farmer in farming operations. For purposes of this section, an item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals; or animals. The following tangible personal property, digital property, and services that may be exempt from sales and use tax under this section are as follows:

(6) Any of the following substances when purchased for use on animals or plants, as appropriate, held or produced for commercial purposes. This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:

- a. Remedies, vaccines, medications, litter materials, and feeds for animals.
- b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
- c. Defoliants for use on cotton or other crops.
- d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.

1 e. Semen.

2 ...

3 (c1) Services for Farmer. – A qualifying item listed in subdivision (6) of subsection (a)  
4 of this section purchased to fulfill a service for a person who holds a qualifying farmer  
5 exemption certificate or a conditional farmer exemption certificate issued under  
6 G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased directly  
7 by the person who holds the exemption certificate. A person that purchases one of the items  
8 allowed an exemption under this subsection must provide an exemption certificate to the  
9 retailer that includes the name of the purchaser and an exemption number issued to the  
10 purchaser by the Department pursuant to G.S. 105-164.28A. A person that purchases an item  
11 exempt from tax pursuant to this subsection must maintain records to substantiate that an item  
12 is used to provide a service for a person who holds a qualifying farmer exemption certificate or  
13 a conditional farmer exemption certificate.

14 ...".

15 **SECTION 4.9.(b)** This section is effective retroactively to July 1, 2014.

16 **SECTION 4.10.** G.S. 105-164.14(a) reads as rewritten:

17 "(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with  
18 this section, of part of the sales and use taxes paid by it on the purchase in this State of railway  
19 cars and locomotives, and fuel, lubricants, repair parts, accessories, service contracts, and  
20 repair, maintenance, and installation services for a motor vehicle, railroad car, locomotive, or  
21 airplane the carrier operates. An "interstate carrier" is a person who is engaged in transporting  
22 persons or property in interstate commerce for compensation. The Secretary shall prescribe the  
23 periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which  
24 refunds may be claimed, and shall prescribe the time within which, following these periods, an  
25 application for refund may be made.

26 An applicant for refund shall furnish the following information and any proof of the  
27 information required by the Secretary:

- 28 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts,  
29 accessories, service contracts, and repair, maintenance, and installation  
30 services purchased by the applicant inside or outside this State during the  
31 refund period.
- 32 (2) The purchase price of the taxable items listed in subdivision (1) of this  
33 subsection. For purposes of this subdivision, the term "taxable" is based on  
34 the imposition of tax on the items and services in the State.
- 35 (3) The sales and use taxes paid in this State on the listed items.
- 36 (4) The number of miles the applicant's motor vehicles, railroad cars,  
37 locomotives, and airplanes were operated both inside and outside this State  
38 during the refund period. Airplane miles are not in this State if the airplane  
39 does not depart or land in this State.
- 40 (5) Any other information required by the Secretary.

41 For each applicant, the Secretary shall compute the amount to be refunded as follows. First,  
42 the Secretary shall determine the mileage ratio. The numerator of the mileage ratio is the  
43 number of miles the applicant operated all motor vehicles, railroad cars, locomotives, and  
44 airplanes in this State during the refund period. The denominator of the mileage ratio is the  
45 number of miles the applicant operated all motor vehicles, railroad cars, locomotives, and  
46 airplanes both inside and outside this State during the refund period. Second, the Secretary shall  
47 determine the applicant's proportional liability for the refund period by multiplying this mileage  
48 ratio by the purchase price of the items identified in subdivision (1) of this subsection and then  
49 multiplying the resulting product by the tax rate that would have applied to the items if they  
50 had all been purchased in this State. Third, the Secretary shall refund to each applicant the

1 excess of the amount of sales and use taxes the applicant paid in this State during the refund  
2 period on these items over the applicant's proportional liability for the refund period."

3 **SECTION 4.11.** G.S. 105-164.15A(b) reads as rewritten:

4 "(b) Combined General Rate Items. – The effective date of a rate change for an item that  
5 is taxable under this Article at the combined general rate is administered as follows:

6 ...."

7 **SECTION 4.12.** G.S. 105-164.19 reads as rewritten:

8 "**§ 105-164.19. Extension of time for making returns and payment.**

9 The Secretary for good cause may extend the time for filing any return under the provisions  
10 of this Article and may grant additional time within which to file the return ~~as he may deem~~  
11 ~~proper, but the time for filing any return shall not be extended for more than 30 days after the~~  
12 ~~regular due date of the return. If the time for filing a return is extended, interest accrues at the~~  
13 ~~rate established pursuant to G.S. 105-241.21 from the time the return was due to be filed to the~~  
14 ~~date of payment and pay the tax due pursuant to G.S. 105-263(b)."~~

15 **SECTION 4.13.** G.S. 105-164.27A(a) reads as rewritten:

16 "(a) General. – A general direct pay permit authorizes its holder to purchase certain  
17 tangible personal property, digital property, or service without paying tax to the seller and  
18 authorizes the seller to not collect any tax on a sale to the permit holder. A general direct pay  
19 permit may not be used for purposes identified in subsections (a1), (a2), (a3), or (b) of this  
20 section. A person who purchases an item under a direct pay permit issued under this subsection  
21 is liable for use tax due on the purchase. The tax is payable when the property is placed in use  
22 or the service is received. A direct pay permit issued under this subsection does not apply to  
23 taxes imposed under G.S. 105-164.4 on sales of ~~electricity~~ electricity, piped natural gas, video  
24 programming, spirituous liquor, or the gross receipts derived from rentals of accommodations.

25 A person who purchases an item for storage, use, or consumption in this State whose tax  
26 status cannot be determined at the time of the purchase because of one of the reasons listed  
27 below may apply to the Secretary for a general direct pay permit:

- 28 (1) The place of business where the item will be stored, used, or consumed in  
29 the State is not known at the time of the purchase and a different tax  
30 consequence applies depending on where the item is ~~used~~ used in the State.  
31 (2) The manner in which the item will be stored, used, or consumed in the State  
32 is not known at the time of the purchase and one or more of the potential  
33 uses is taxable but others are not ~~taxable~~ taxable in the State."

34 **SECTION 4.14.** G.S. 105-164.32 reads as rewritten:

35 "**§ 105-164.32. Incorrect returns; estimate.**

36 If a retailer, a wholesale ~~merchant~~ merchant, a facilitator, or a consumer fails to file a return  
37 and pay the tax due under this Article or files a grossly incorrect or false or fraudulent return,  
38 the Secretary must estimate the tax due and assess the retailer, the wholesale merchant, the  
39 facilitator, or the consumer based on the estimate."

40 **SECTION 4.15.** G.S. 105-244.3(a)(8) reads as rewritten:

41 "(a) Grace Period. – The Department shall take no action to assess any tax due for a  
42 filing period beginning on or after March 1, 2016, and ending before January 1, 2018, if one or  
43 more of the conditions of this subsection apply and the retailer did not receive specific written  
44 advice from the Secretary for the transactions at issue for the laws in effect for the applicable  
45 periods. The conditions are as follows:

46 ...

- 47 (8) A person failed to collect sales tax on the portion of a mixed contract for  
48 repair, maintenance, and installation services that exceeds ten percent (10%)  
49 for a transaction prior to January 1, ~~2017~~ 2018. This subdivision does not  
50 prohibit the Secretary from assessing use tax on purchases used to fulfill a  
51 mixed contract."

1           **SECTION 4.16.** G.S. 105-187.52(c) reads as rewritten:

2           "(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this  
3 Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or  
4 repair tangible personal property pursuant to a service contract exempt from tax under  
5 G.S. ~~105-164.41(b)(4)~~; 105-164.13(61a)a."  
6

7           **PART V. EXCISE TAX CHANGES**

8           **SECTION 5.1.** G.S. 105-113.4(13a) reads as rewritten:

9           "(13a) Vapor product. – Any nonlighted, noncombustible product that employs a  
10 mechanical heating element, battery, or electronic circuit regardless of shape  
11 or size and that can be used to produce vapor from nicotine in a solution.  
12 The term includes any vapor cartridge or other container of nicotine in a  
13 solution or other form that is intended to be used with or in an electronic  
14 cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar  
15 product or device. ~~The term does not include any product regulated by the~~  
16 ~~United States Food and Drug Administration under Chapter V of the federal~~  
17 ~~Food, Drug, and Cosmetic Act."~~

18           **SECTION 5.2.** G.S. 105-113.9(2) reads as rewritten:

19           "(2) The sale of cigarettes to a nonresident ~~wholesaler or retailer registered~~  
20 ~~through the Secretary purchaser~~ who has no place of business in North  
21 Carolina and who purchases the cigarettes for the purposes of resale not  
22 within this State and where the cigarettes are delivered to the purchaser at  
23 the business location in North Carolina of the distributor who is also licensed  
24 as a distributor under the laws of the state of the nonresident purchaser."

25           **SECTION 5.3.** G.S. 105-113.36 reads as rewritten:

26           "**§ 105-113.36. Wholesale dealer and retail dealer must obtain license.**

27           A wholesale dealer shall obtain for each place of business a continuing tobacco products  
28 license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail dealer shall  
29 obtain for each place of business a continuing tobacco products license and shall pay a tax of  
30 ten dollars (\$10.00) for the license. A "place of business" is a place where a wholesale dealer ~~or~~  
31 ~~where a retail dealer~~ makes tobacco products other than cigarettes or a wholesale dealer ~~or~~ a  
32 ~~retail dealer~~ receives or stores non-tax-paid tobacco products other than cigarettes."

33           **SECTION 5.4.(a)** Part 5 of Article 2C of Chapter 105 of the General Statutes is  
34 amended by adding a new section to read:

35           "**§ 105-113.83A. Registration and discontinuance requirements; penalties.**

36           (a) Registration Required. – A person who holds a wine shipper permit issued under  
37 G.S. 18B-1001.1 or one or more of the following ABC permits issued under Article 11 of  
38 Chapter 18B of the General Statutes must register with the Secretary:

- 39           (1) Unfortified winery.
- 40           (2) Fortified winery.
- 41           (3) Brewery.
- 42           (4) Distillery.
- 43           (5) Wine importer.
- 44           (6) Wine wholesaler.
- 45           (7) Malt beverages importer.
- 46           (8) Malt beverages wholesaler.
- 47           (9) Nonresident malt beverage vendor.
- 48           (10) Nonresident wine vendor.
- 49           (11) Wine Producer.

1       (b) Registration Form. – Registration must be in a form required by the Secretary and  
2 include all information requested. If a permittee fails to register, the Secretary must notify the  
3 ABC Commission of the violation.

4       (c) Discontinuance of Authorized Activities. – A permittee required to be registered,  
5 who changes ownership or stops engaging in the activities authorized by an issued ABC permit  
6 must notify the Secretary in writing of the change. The permittee is responsible for maintaining  
7 a bond or irrevocable letter of credit as required by G.S. 105-113.86, and submitting all returns  
8 and the payment of all taxes for which the permittee is liable under this Article while the issued  
9 ABC permit is active.

10       (d) Penalty. – The Secretary must notify the ABC Commission when a permittee  
11 required to register is not eligible to hold an ABC permit for failure to satisfy  
12 G.S. 18B-900(a)(8). Upon notification, the ABC Commission must impose any penalty  
13 permitted under G.S. 18B-104."

14       **SECTION 5.4.(b)** This section becomes effective October 1, 2018.

15       **SECTION 5.5.** G.S. 105-113.86(b) reads as rewritten:

16       "(b) Nonresident Vendors. – The Secretary may require the holder of a nonresident  
17 vendor ABC permit to furnish a bond in an amount not to exceed two thousand dollars  
18 (\$2,000). The bond ~~shall~~must be conditioned on compliance with this Article, ~~shall be~~ payable  
19 to the State, ~~shall be~~ State in a form acceptable to the Secretary, and ~~shall be~~ secured by a  
20 corporate surety or by a pledge of obligations of the federal government, the State, or a political  
21 subdivision of the State surety."

22       **SECTION 5.6.** G.S. 105-259(b)(50) reads as rewritten:

23       "(50) To provide public access to a list containing the ~~name~~name, physical  
24 address, and account number of entities licensed under Article 2A of this  
25 Chapter to aid in the administration of the tobacco products tax."

26       **SECTION 5.7.** G.S. 105-449.80(a) reads as rewritten:

27       "(a) Rate. – For the period that begins on January 1, 2016, and ends on June 30, 2016,  
28 the motor fuel excise tax rate is a flat rate of thirty-five cents (35¢) per gallon. For the period  
29 that begins on July 1, 2016, and ends on December 31, 2016, the motor fuel excise tax rate is a  
30 flat rate of thirty-four cents (34¢) per gallon. For the calendar years beginning on January 1,  
31 2017, the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon, multiplied  
32 by a percentage. For calendar years beginning on or after January 1, 2018, the motor fuel excise  
33 tax rate is the amount for the preceding calendar year, multiplied by a percentage. The  
34 percentage is one hundred percent (100%) plus or minus the sum of the following:

- 35       (1) The percentage change in population for the applicable calendar year, as  
36       estimated under G.S. 143C-2-2, multiplied by seventy-five percent (75%).
- 37       (2) The annual percentage change in the Consumer Price Index for All Urban  
38       Consumers, multiplied by twenty-five percent (25%). For purposes of this  
39       subdivision, "Consumer Price Index for All Urban Consumers" means the  
40       United States city average for energy index contained in the detailed report  
41       released in the October prior to the applicable calendar year by the Bureau of  
42       Labor Statistics of the United States Department of ~~Labor~~Labor, or data  
43       determined by the Secretary to be equivalent."

44       **SECTION 5.8.(a)** Section 2(b) of S.L 2016-23 reads as rewritten:

45       "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
46 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under  
47 Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that  
48 establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the  
49 motor fuel excise tax rate for an establishment to which permits may be issued pursuant to  
50 G.S. 18B-1006(n1), as enacted by this act, is ~~sixteen cents (16¢)~~eighteen cents (18¢) per gallon.  
51 The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate

1 imposed by this section with the rate levied by the State of South Carolina on motor fuels and  
2 may recommend a change in the rate imposed by this section to an amount no greater than the  
3 rate then in effect for the State of South Carolina. An establishment designated as a special  
4 class of property by this section may obtain monthly refunds on the difference between the  
5 motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by  
6 this section. The Department shall calculate for each calendar year the difference between the  
7 motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel  
8 sold by an establishment classified by this section in the absence of this classification and the  
9 motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the  
10 classification. The difference in taxes, together with any interest, penalties, or costs that may  
11 accrue thereon, are a lien on the real property underlying the establishment as provided in  
12 G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the  
13 Department as deferred taxes. The deferred taxes for the preceding three calendar years are due  
14 and payable on the day this subsection becomes ineffective due to the occurrence of a  
15 disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this  
16 subsection does not exceed the tax value of the property. A disqualifying event occurs when the  
17 title to the real property underlying the establishment is transferred to a new owner. A lien for  
18 deferred taxes is extinguished when the amount required by this subsection is paid."

19 **SECTION 5.8.(b)** Effective July 1, 2018, Section 2(b) of S.L 2016-23, as rewritten  
20 by Section 5.8.(a) of this act, reads as rewritten:

21 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
22 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under  
23 Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that  
24 establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the  
25 motor fuel excise tax rate for an establishment to which permits may be issued pursuant to  
26 G.S. 18B-1006(n1), as enacted by this act, is ~~eighteen cents (18¢)~~ twenty cents (20¢) per gallon.  
27 The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate  
28 imposed by this section with the rate levied by the State of South Carolina on motor fuels and  
29 may recommend a change in the rate imposed by this section to an amount no greater than the  
30 rate then in effect for the State of South Carolina. An establishment designated as a special  
31 class of property by this section may obtain monthly refunds on the difference between the  
32 motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by  
33 this section. The Department shall calculate for each calendar year the difference between the  
34 motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel  
35 sold by an establishment classified by this section in the absence of this classification and the  
36 motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the  
37 classification. The difference in taxes, together with any interest, penalties, or costs that may  
38 accrue thereon, are a lien on the real property underlying the establishment as provided in  
39 G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the  
40 Department as deferred taxes. The deferred taxes for the preceding three calendar years are due  
41 and payable on the day this subsection becomes ineffective due to the occurrence of a  
42 disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this  
43 subsection does not exceed the tax value of the property. A disqualifying event occurs when the  
44 title to the real property underlying the establishment is transferred to a new owner. A lien for  
45 deferred taxes is extinguished when the amount required by this subsection is paid."

46 **SECTION 5.8.(c)** Effective July 1, 2019, Section 2(b) of S.L 2016-23, as rewritten  
47 by Section 5.8.(b) of this act, reads as rewritten:

48 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
49 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under  
50 Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that  
51 establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the

1 motor fuel excise tax rate for an establishment to which permits may be issued pursuant to  
2 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty cents (20¢)~~twenty-two cents (22¢) per  
3 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
4 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels  
5 and may recommend a change in the rate imposed by this section to an amount no greater than  
6 the rate then in effect for the State of South Carolina. An establishment designated as a special  
7 class of property by this section may obtain monthly refunds on the difference between the  
8 motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by  
9 this section. The Department shall calculate for each calendar year the difference between the  
10 motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel  
11 sold by an establishment classified by this section in the absence of this classification and the  
12 motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the  
13 classification. The difference in taxes, together with any interest, penalties, or costs that may  
14 accrue thereon, are a lien on the real property underlying the establishment as provided in  
15 G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the  
16 Department as deferred taxes. The deferred taxes for the preceding three calendar years are due  
17 and payable on the day this subsection becomes ineffective due to the occurrence of a  
18 disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this  
19 subsection does not exceed the tax value of the property. A disqualifying event occurs when the  
20 title to the real property underlying the establishment is transferred to a new owner. A lien for  
21 deferred taxes is extinguished when the amount required by this subsection is paid."

22 **SECTION 5.8.(d)** Effective July 1, 2020, Section 2(b) of S.L 2016-23, as rewritten  
23 by Section 5.8.(c) of this act, reads as rewritten:

24 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
25 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under  
26 Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that  
27 establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the  
28 motor fuel excise tax rate for an establishment to which permits may be issued pursuant to  
29 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-two cents (22¢)~~twenty-four cents (24¢) per  
30 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
31 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels  
32 and may recommend a change in the rate imposed by this section to an amount no greater than  
33 the rate then in effect for the State of South Carolina. An establishment designated as a special  
34 class of property by this section may obtain monthly refunds on the difference between the  
35 motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by  
36 this section. The Department shall calculate for each calendar year the difference between the  
37 motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel  
38 sold by an establishment classified by this section in the absence of this classification and the  
39 motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the  
40 classification. The difference in taxes, together with any interest, penalties, or costs that may  
41 accrue thereon, are a lien on the real property underlying the establishment as provided in  
42 G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the  
43 Department as deferred taxes. The deferred taxes for the preceding three calendar years are due  
44 and payable on the day this subsection becomes ineffective due to the occurrence of a  
45 disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this  
46 subsection does not exceed the tax value of the property. A disqualifying event occurs when the  
47 title to the real property underlying the establishment is transferred to a new owner. A lien for  
48 deferred taxes is extinguished when the amount required by this subsection is paid."

49 **SECTION 5.8.(e)** Effective July 1, 2021, Section 2(b) of S.L 2016-23, as rewritten  
50 by Section 5.8.(d) of this act, reads as rewritten:

1       **"SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
2 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under  
3 Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that  
4 establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the  
5 motor fuel excise tax rate for an establishment to which permits may be issued pursuant to  
6 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-four cents (24¢)~~twenty-six cents (26¢) per  
7 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
8 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels  
9 and may recommend a change in the rate imposed by this section to an amount no greater than  
10 the rate then in effect for the State of South Carolina. An establishment designated as a special  
11 class of property by this section may obtain monthly refunds on the difference between the  
12 motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by  
13 this section. The Department shall calculate for each calendar year the difference between the  
14 motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel  
15 sold by an establishment classified by this section in the absence of this classification and the  
16 motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the  
17 classification. The difference in taxes, together with any interest, penalties, or costs that may  
18 accrue thereon, are a lien on the real property underlying the establishment as provided in  
19 G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the  
20 Department as deferred taxes. The deferred taxes for the preceding three calendar years are due  
21 and payable on the day this subsection becomes ineffective due to the occurrence of a  
22 disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this  
23 subsection does not exceed the tax value of the property. A disqualifying event occurs when the  
24 title to the real property underlying the establishment is transferred to a new owner. A lien for  
25 deferred taxes is extinguished when the amount required by this subsection is paid."

26       **SECTION 5.8.(f)** Effective July 1, 2022, Section 2(b) of S.L 2016-23, as rewritten  
27 by Section 5.8.(e) of this act, reads as rewritten:

28       **"SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
29 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under  
30 Section 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that  
31 establishment is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the  
32 motor fuel excise tax rate for an establishment to which permits may be issued pursuant to  
33 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-six cents (26¢)~~twenty-eight cents (28¢) per  
34 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
35 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels  
36 and may recommend a change in the rate imposed by this section to an amount no greater than  
37 the rate then in effect for the State of South Carolina. An establishment designated as a special  
38 class of property by this section may obtain monthly refunds on the difference between the  
39 motor fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by  
40 this section. The Department shall calculate for each calendar year the difference between the  
41 motor fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel  
42 sold by an establishment classified by this section in the absence of this classification and the  
43 motor fuel excise tax that was imposed on the motor fuel sold by the establishment due to the  
44 classification. The difference in taxes, together with any interest, penalties, or costs that may  
45 accrue thereon, are a lien on the real property underlying the establishment as provided in  
46 G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the  
47 Department as deferred taxes. The deferred taxes for the preceding three calendar years are due  
48 and payable on the day this subsection becomes ineffective due to the occurrence of a  
49 disqualifying event; provided, however, the amount collected for deferred taxes pursuant to this  
50 subsection does not exceed the tax value of the property. A disqualifying event occurs when the

1 title to the real property underlying the establishment is transferred to a new owner. A lien for  
2 deferred taxes is extinguished when the amount required by this subsection is paid."  
3

#### 4 **PART VI. OTHER TAX CHANGES**

5 **SECTION 6.1.(a)** G.S. 105-230(b) reads as rewritten:

6 "(b) Any act performed or attempted to be performed during the period of suspension is  
7 invalid and of no effect, unless the Secretary of State reinstates the corporation or limited  
8 liability company pursuant to G.S. 105-232. However, a suspended entity's state tax filing  
9 obligations and the payment of its tax liability is not affected by the suspension, nor does a  
10 suspension affect the liability of a responsible person under G.S. 105-242.2, whether the  
11 obligation or liability is enforced in the context of a civil or criminal proceeding or otherwise."

12 **SECTION 6.1.(b)** G.S. 105-242.2(a)(1) reads as rewritten:

13 "(1) Business entity. – A corporation, a limited liability company, or a  
14 partnership-partnership, regardless of whether the entity is suspended under G.S. 105-230 or is  
15 dissolved under Article 14 of Chapter 55 of the General Statutes or under Article 6 of Chapter  
16 57D of the General Statutes."

17 **SECTION 6.2.** G.S. 105-237.1(a)(6) reads as rewritten:

18 "(6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the assessment  
19 is for sales or use tax the retailer failed to collect or the person failed to pay on an item taxable  
20 under G.S. 105-164.4(a)(10) through (a)(15), and the retailer or person made a good-faith effort  
21 to comply with the sales and use tax laws. This subdivision expires for ~~applies to~~ assessments  
22 issued after for any tax due for a reporting period ending prior to July 1, 2020."

23 **SECTION 6.3.** G.S. 105-282.1(a) reads as rewritten:

24 **"§ 105-282.1. Applications for property tax exemption or exclusion; annual review of**  
25 **property exempted or excluded from property tax.**

26 (a) Application. – Every owner of property claiming exemption or exclusion from  
27 property taxes under the provisions of this Subchapter has the burden of establishing that the  
28 property is entitled to it. If the property for which the exemption or exclusion is claimed is  
29 appraised by the Department of Revenue, the application shall be filed with the Department.  
30 Otherwise, the application shall be filed with the assessor of the county in which the property is  
31 situated. An application must contain a complete and accurate statement of the facts that entitle  
32 the property to the exemption or exclusion and must indicate the municipality, if any, in which  
33 the property is located. Each application filed with the Department of Revenue or an assessor  
34 shall be submitted on a form approved by the Department. Application forms shall be made  
35 available by the assessor and the Department, as appropriate.

36 Except as provided below, an owner claiming an exemption or exclusion from property  
37 taxes must file an application for the exemption or exclusion annually during the listing period.

38 ...

39 (2) Single application required. – An owner of one or more of the following  
40 properties eligible for a property tax benefit must file an application for the  
41 benefit to receive it. Once the application has been approved, the owner does  
42 not need to file an application in subsequent years unless new or additional  
43 property is acquired or improvements are added or removed, necessitating a  
44 change in the valuation of the property, or there is a change in the use of the  
45 property or the qualifications or eligibility of the taxpayer necessitating a  
46 review of the benefit.

47 ...

48 b. Special classes of property excluded from taxation under  
49 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),  
50 (36), (38), (39), (41), ~~or (45)~~ (45), (46), (47), (48), or (49) or under  
51 G.S. 131A-21.

...."

**SECTION 6.4.(a)** G.S. 153A-155(c) reads as rewritten:

"(c) Collection. – A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing county on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust for and on account of the taxing county.

The taxing county shall design and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. A retailer who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the retailer for State sales and use tax."

**SECTION 6.4.(b)** G.S. 160A-215(c) reads as rewritten:

"(c) Collection. – A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a room occupancy tax to the taxing city on and after the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, has the same responsibility and liability under the room occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

A retailer must separately state the room occupancy tax. Room occupancy taxes paid to a retailer are held in trust for and on account of the taxing city.

The taxing city shall design and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the retailer for State sales and use tax."

**SECTION 6.5.(a)** G.S. 130A-247 reads as rewritten:

**"§ 130A-247. Definitions.**

The following definitions shall apply throughout this Part:

...

- 1 (5a) "Bed and breakfast home" means a business in a private home of not more  
 2 than eight guest rooms that offers bed and breakfast accommodations for a  
 3 period of less than one week and that meets all of the following criteria:  
 4 a. Does not serve food or drink to the general public for pay.  
 5 b. Serves the breakfast meal, the lunch meal, the dinner meal, or a  
 6 combination of all or some of these three meals, only to overnight  
 7 guests of the home.  
 8 c. Includes the price of breakfast in the room rate. The price of  
 9 additional meals served ~~may be added to the room rate~~ shall be listed  
 10 as a separate charge on the overnight guest's bill at the conclusion of  
 11 the overnight guest's stay.  
 12 d. Is the permanent residence of the owner or the manager of the  
 13 business.
- 14 (6) "Bed and breakfast inn" means a business of at least nine but not more than  
 15 12 guest rooms that offers bed and breakfast accommodations for a period of  
 16 less than one week, and that meets all of the following requirements:  
 17 a. Does not serve food or drink to the general public for pay.  
 18 b. Serves the breakfast meal, the lunch meal, the dinner meal, or a  
 19 combination of all or some of these three meals only to overnight  
 20 guests of the business.  
 21 c. Includes the price of breakfast in the room rate. The price of  
 22 additional meals served ~~may be added to the room rate at the~~  
 23 ~~conclusion of the overnight guest's stay~~ shall be listed as a separate  
 24 charge on the overnight guest's bill at the conclusion of the overnight  
 25 guest's stay.  
 26 d. Is the permanent residence of the owner or the manager of the  
 27 business.

28 ..."

29 **SECTION 6.5.(b)** This section becomes effective July 1, 2018, and applies to  
 30 gross receipts derived from the rental of an accommodation that a consumer occupies or has the  
 31 right to occupy on or after that date.

32 **SECTION 6.6.** A municipality that is holding sales and use tax revenue distributed  
 33 to it that is restricted for water and sewage capital outlay purposes, as required under  
 34 G.S. 105-487(b) and G.S. 105-504, repealed effective August 14, 1998, under S.L. 1998-98,  
 35 may use the restricted revenue as follows:

- 36 (1) A municipality that does not own or operate a water or sewer system may  
 37 use part or all of the restricted sales and use tax revenue for any lawful  
 38 purpose upon adoption of a resolution. A municipality that adopts a  
 39 resolution releasing the sales and use tax revenue from the repealed  
 40 restriction pursuant to this subdivision must provide written notice to the  
 41 Secretary of the Local Government Commission that the funds are  
 42 unrestricted within 30 days of the adoption of the resolution.
- 43 (2) A municipality that owns or operates a water or sewer system must use the  
 44 revenue for its restricted purpose. The municipality may petition the Local  
 45 Government Commission to waive part or all of the restriction, as allowed  
 46 under G.S. 105-487(c).

47  
 48 **PART VII. EFFECTIVE DATE**

49 **SECTION 7.1.** Except as otherwise provided, this act is effective when it becomes  
 50 law.