

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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BILL DRAFT 2017-BAxfz-16 [v.39]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
05/08/2018 05:22:55 PM

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. 105-228.90(b)(1b) reads as rewritten:

7 "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2017~~, February  
8 9, 2018, including any provisions enacted as of that date that become effective  
9 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 State  
13 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 for  
18 State and federal income tax purposes. The purpose of this subdivision is to  
19 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. The  
23 purpose of this subdivision is to decouple from the exclusion of gains from  
24 the sale or exchange of an investment in an Opportunity Fund available under  
25 federal law.

26 (28) The amount deducted under Section 250 of the Code.

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

29 ...

30 (3b) Any amount included in federal taxable income under ~~section 78 or section~~  
31 951 ~~sections 78, 951, 951A, or 965~~ sections 78, 951, 951A, or 965 of the Code, net of related expenses.

32 ...

33



\* 2 0 1 7 - B A X F Z - 1 6 - V - 3 9 \*

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

..."

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

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

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

...

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

...

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

...

...

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

(1) For taxable years 2014, 2015, ~~and 2016,~~2016, and 2017, the taxpayer must add the amount excluded from the taxpayer's gross income for the discharge of qualified principal residence indebtedness under section 108 of the Code. The purpose of this subdivision is to decouple from the income exclusion

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

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

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

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

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

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

37 (7) The taxpayer must add the amount of gain that would be included in the  
 38 taxpayer's adjusted gross income but for the step-up in basis under section  
 39 1400Z-2(c) of the Code. The purpose of this subdivision is to decouple from  
 40 the exclusion of gains from the sale or exchange of an investment in an  
 41 Opportunity Fund available under federal law.

42 ...".

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

44 **"§ 105-163.1. Definitions.**

45 The following definitions apply in this Article:

46 ...  
 47 (13) Wages. – The term has the same meaning as in section 3401 of the Code  
 48 ~~except it does not include the amount an employer pays an employee as~~  
 49 ~~reimbursement for ordinary and necessary expenses incurred by the employee~~  
 50 ~~on behalf of the employer and in the furtherance of the business of the~~  
 51 ~~employer.~~ Code.

1 ...".

2 **SECTION 1.5.(a)** G.S. 105-130.5(a)(17) is repealed.

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

4 **SECTION 1.5.(c)** This section becomes effective for taxable years beginning on or  
5 after January 1, 2018.

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.(a)** G.S. 105-153(c)(7) reads as rewritten:

24 "(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the  
25 taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's  
26 adjusted gross income:

27 ...

28 (7) The amount deducted in a prior taxable year to the extent this amount was  
29 withdrawn from the Parental Savings Trust Fund of the State Education  
30 Assistance Authority established pursuant to G.S. 116-209.25 and not used to  
31 pay for ~~the qualified higher~~ education expenses of the designated ~~beneficiary,~~  
32 beneficiary as permitted under section 529 of the Code, unless the withdrawal  
33 was made without penalty under section 529 of the Code due to the death or  
34 permanent disability of the designated beneficiary.meets at least one of the  
35 following conditions:

36 a. The withdrawal was not subject to the additional tax imposed by  
37 section 529(c)(6) of the Code.

38 b. The withdrawal was rolled over to an ABLE account as defined in  
39 G.S. 147-86.70(b)."

40 **SECTION 1.7.(b)** G.S. 116-209.25 reads as rewritten:

41 "**§ 116-209.25. Parental Savings Trust Fund.**

42 (a) Policy. – The General Assembly of North Carolina hereby finds and declares that  
43 encouraging parents and other interested parties to save for the ~~postsecondary~~ education expenses  
44 of eligible students is fully consistent with and furthers the long-established policy of the State  
45 to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).

46 (b) Parental Savings Trust Fund. – There is established a parental savings trust fund to be  
47 administered by the State Education Assistance Authority to enable qualified parents and other  
48 interested parties to save funds to meet the costs of ~~the postsecondary~~ education expenses of  
49 eligible students.students in accordance with section 529 of the Code. For purposes of this  
50 section, the term "Code" has the same meaning as defined in G.S. 105-228.90.

51 ...".

1           **SECTION 1.8.** Except as otherwise provided, this Part is effective when it becomes  
2 law.

3  
4 **PART II. BUSINESS TAX CHANGES**

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

6           "(2) Corporation. – A domestic corporation, a foreign corporation, an electric  
7 membership corporation organized under Chapter 117 of the General Statutes  
8 or doing business in this State, or an association that is organized for pecuniary  
9 gain, has capital stock represented by shares, whether with or without par  
10 value, and has privileges not possessed by individuals or partnerships. The  
11 term includes a mutual or capital stock savings and loan association or  
12 building and loan association chartered under the laws of any state or of the  
13 United States. The term includes a limited liability company or a partnership  
14 that elects to be taxed as a corporation under the Code, but does not otherwise  
15 include a limited liability ~~company~~ company or a partnership."

16           **SECTION 2.1.(b)** This section is effective beginning on or after January 1, 2019,  
17 and applies to the calculation of franchise tax reported on the 2018 and later corporate income  
18 tax return.

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

20           "(b) Determination of Net Worth. – A corporation taxed under this section shall determine  
21 the total amount of its net worth on the basis of the books and records of the corporation as of  
22 the close of its income year. The net worth of a corporation is its total assets without regard to  
23 the deduction for accumulated depreciation, depletion, or amortization less its total liabilities,  
24 computed in accordance with generally accepted accounting principles as of the end of the  
25 corporation's taxable year. If the corporation does not maintain its books and records in  
26 accordance with generally accepted accounting principles, then its net worth is computed in  
27 accordance with the accounting method used by the entity for federal tax ~~purposes so long as the~~  
28 ~~method fairly reflects the corporation's net worth for purposes of the tax levied by this~~  
29 ~~section.~~ purposes. A corporation's net worth is subject to the following adjustments:

30           (1) A deduction for accumulated depreciation, depletion, and amortization as  
31 determined in accordance with the method used for federal tax purposes.

32           (1b) Assets for which a deduction is allowed under subdivision (1) of this  
33 subsection are valued in accordance with the method used in computing  
34 depreciation, depletion, and amortization for federal income tax purposes.

35           ...

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

37           ...."

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

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

42           "(l) (1) The sales factor is a fraction, the numerator of which is the total sales of the  
43 corporation in this State during the income year, and the denominator of which  
44 is the total sales of the corporation everywhere during the income year.  
45 Notwithstanding any other provision under this Part, the receipts from any  
46 casual sale of property shall be excluded from both the numerator and the  
47 denominator of the sales factor. Where a corporation is not taxable in another  
48 state on its apportionable income but is taxable in another state only because  
49 of nonapportionable income, all sales shall be treated as having been made in  
50 this State.

1 (2) Sales of tangible personal property are in this State if the property is received  
 2 in this State by the purchaser. In the case of delivery of goods by common  
 3 carrier or by other means of transportation, including transportation by the  
 4 purchaser, the place at which the goods are ultimately received after all  
 5 transportation has been completed shall be considered as the place at which  
 6 the goods are received by the purchaser. Direct delivery into this State by the  
 7 taxpayer to a person or firm designated by a purchaser from within or without  
 8 the State shall constitute delivery to the purchaser in this State.

9 (3) Other sales are in this State if any of the following occur:

- 10 a. The receipts are from real or tangible personal property located in this  
 11 ~~State; or State.~~  
 12 b. The receipts are from intangible property and are received from  
 13 sources to the extent the intangible property is used within this ~~State;~~  
 14 ~~or State.~~  
 15 c. The receipts are from services and the income-producing activities are  
 16 in this State. For the purposes of this subdivision, an  
 17 "income-producing activity" means an activity directly performed by  
 18 the taxpayer or its agents for the ultimate purpose of generating the  
 19 sale of the service. For purposes of this subdivision, "receipts from  
 20 services" includes receipts from services sold as part of, or in  
 21 connection with, the sale of tangible property located in this State."

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

23 **"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

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

26 ...  
 27 (10) The total amounts allowed under this Chapter during the taxable year as a  
 28 credit against the taxpayer's income tax. ~~This subdivision does not apply to a~~  
 29 ~~credit allowed under G.S. 105-130.47.~~ A corporation that apportions part of  
 30 its income to this State shall make the addition required by this subdivision  
 31 after it determines the amount of its income that is apportioned and allocated  
 32 to this State and shall not apply to a credit taken under this Chapter the  
 33 apportionment factor used by it in determining the amount of its apportioned  
 34 income.

35 ...  
 36 (20) ~~The amount of a donation made to a nonprofit organization or a unit of State~~  
 37 ~~or local government for which a credit is claimed under G.S. 105-129.16H.~~  
 38 ...."

39 **SECTION 2.5.(a)** G.S. 105-228.3 is amended by adding the following new  
 40 subdivision:

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

45 **SECTION 2.5.(b)** G.S. 105-228.4A reads as rewritten:

46 **"§ 105-228.4A. Tax on captive insurance companies.**

47 (a) Tax Levied. – A tax is levied in this section on a captive insurance company doing  
 48 business in this State. In the case of a branch captive insurance company, the tax levied in this  
 49 section applies only to the branch business of the company. Two or more captive insurance  
 50 companies under common ownership and control are taxed under this section as a single captive  
 51

1 insurance company. The tax levied in this section does not apply to a foreign captive insurance  
 2 company.

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

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

10 ...."

11 **SECTION 2.5.(c)** G.S. 105-228.5(g) reads as rewritten:

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

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

20 **SECTION 2.6.(a)** Section 4 of S.L. 2017-151 is re-enacted.

21 **SECTION 2.6.(b)** This section is effective when it becomes law and applies to  
 22 taxable years beginning on or after July 1, 2018.

### 23 **PART III. FEDERAL DETERMINATIONS AND AMENDED RETURNS**

24 **SECTION 3.1.** G.S. 105-130.20 reads as rewritten:

25 "**§ 105-130.20. Federal ~~corrections, determinations and amended returns.~~**

26 (a) **Federal Determination.** – If a taxpayer's federal taxable income or a federal tax  
 27 credit ~~that is~~ changed or corrected by the Commissioner of Internal Revenue or other officer of  
 28 the United States or other competent authority, and the change or correction affects the amount  
 29 of State tax payable is corrected or otherwise determined by the federal government, payable, the  
 30 taxpayer ~~must, must~~ file an income tax return reflecting each change or correction from a federal  
 31 determination within six months after being notified of the correction or final determination by  
 32 the federal government, file an income tax return with the Secretary reflecting the corrected or  
 33 determined taxable income each change or correction. The Secretary must propose an assessment  
 34 for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The  
 35 Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. ~~A taxpayer~~  
 36 ~~that fails to comply with this section is subject to the penalties in G.S. 105-236 and forfeits its~~  
 37 ~~rights to any refund due by reason of the determination. A federal determination has the same~~  
 38 ~~meaning as defined in G.S. 105-228.90.~~

39 (b) **Amended Return.** – The following applies to an amended return filed by a taxpayer  
 40 with the Commissioner of Internal Revenue:

- 41 (1) If the amended return contains an adjustment that would increase the amount  
 42 of State tax payable under this Part, then notwithstanding the provisions of  
 43 G.S. 105-241.8(a), the taxpayer must file within six months thereafter an  
 44 amended return with the Secretary.
- 45 (2) If the amended return contains an adjustment that would decrease the amount  
 46 of State tax payable under this Part, the taxpayer may file an amended return  
 47 with the Secretary within the provisions of G.S. 105-241.6.

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

50 **SECTION 3.2.** G.S. 105-159 reads as rewritten:  
 51

1 **"§ 105-159. Federal ~~corrections,determinations and amended returns.~~**

2 (a) **Federal Determination.** – If a taxpayer's adjusted gross income, filing status,  
3 personal exemptions, standard deduction, itemized deductions, or federal tax credit ~~that are~~  
4 ~~changed or corrected by the Commissioner of Internal Revenue or other officer of the United~~  
5 ~~States or competent authority, and the change or correction affects the amount of State tax~~  
6 ~~payable is corrected or otherwise determined by the federal government, payable, the taxpayer~~  
7 ~~must, must file an income tax return reflecting each change or correction from a federal~~  
8 ~~determination within six months after being notified of the correction or final determination by~~  
9 ~~the federal government, file an income tax return with the Secretary reflecting the corrected or~~  
10 ~~determined adjusted gross income or federal tax credit that affects the amount of State tax~~  
11 ~~payable. each change or correction. The Secretary must propose an assessment for any additional~~  
12 ~~tax due from the taxpayer as provided in Article 9 of this Chapter. The Secretary must refund any~~  
13 ~~overpayment of tax as provided in Article 9 of this Chapter. A taxpayer who fails to comply with~~  
14 ~~this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due by~~  
15 ~~reason of the determination. A federal determination has the same meaning as defined in~~  
16 G.S. 105-228.90.

17 (b) **Amended Return.** – The following applies to an amended return filed by a taxpayer  
18 with the Commissioner of Internal Revenue:

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

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

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

28 **SECTION 3.3.** G.S. 105-160.8 reads as rewritten:

29 **"§ 105-160.8. Federal ~~corrections,determinations.~~**

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

33 **SECTION 3.4.** G.S. 105-163.6A reads as rewritten:

34 **"§ 105-163.6A. Federal ~~corrections,determinations.~~**

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

48 **SECTION 3.5.** G.S. 105-241.8(b) is amended by adding a new subdivision to read:

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

51 ...



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

...."

**SECTION 3.6.** G.S. 105-241.10 reads as rewritten:

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

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. ~~A federal determination is a correction or final determination by the federal government of the amount of a federal tax due.~~ A return reflecting a federal determination is timely if it is filed within the time required by G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. A federal determination has the same meaning as defined in G.S. 105-228.90. The limitations are:

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

**SECTION 3.7.** G.S. 105-228.90(b) is amended by adding a new subdivision to read:

**"(3a) Federal determination.** – A change or correction of the amount of a federal tax due arising from an audit by the Commissioner of Internal Revenue."

**SECTION 3.8.** This Part is effective when it becomes law and applies to federal amended returns filed on or after that date.

#### **PART IV. SALES AND USE TAX CHANGES**

**SECTION 4.1.(a)** G.S. 105-164.3(20) reads as rewritten:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

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

...".

**SECTION 4.1.(b)** G.S. 105-164.3, as amended by subsection (a) of this section, reads as rewritten:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

- (2c) Capital improvement. – One or more of the following:

...

- e. Painting or wallpapering of real property, except where painting or wallpapering is incidental to the repair, maintenance, and installation ~~service~~services.

...

- 1 k. ~~Addition~~An addition or alteration to real property that is permanently  
2 affixed or installed to real property and is not an activity listed in  
3 subdivision (33l) of this section as ~~a~~repair, maintenance, and  
4 installation ~~service~~services.
- 5 ...
- 6 (11d) Freestanding appliance. – A machine commonly thought of as an appliance  
7 operated by gas or electric current. Examples include ~~installation of~~  
8 dishwasher, washing machine, clothes dryer, refrigerator, freezer, microwave,  
9 and range, regardless of whether the range is slide-in or drop-in.
- 10 ...
- 11 (20b) Mixed transaction contract. – A contract that includes both a real property  
12 contract for a capital improvement and ~~a~~repair, maintenance, and installation  
13 ~~service~~services for real property that ~~is~~are not related to the capital  
14 improvement.
- 15 ...
- 16 (24) Net taxable sales. – The gross sales or gross receipts of the business of  
17 retailer or another person taxed under this Article after deducting exempt sales  
18 and nontaxable sales.
- 19 ...
- 20 (33c) Qualifying datacenter. – A datacenter that satisfies each of the following  
21 conditions:
- 22 a. The datacenter certifies that it satisfies or will satisfy the wage  
23 standard for the development tier area or zone in which the datacenter  
24 is located. There is no wage standard for a development tier one area.  
25 If an urban progress zone or an agrarian growth zone is not in a  
26 development tier one area, then the wage standard for that zone is an  
27 average weekly wage that is at least equal to ninety percent (90%) of  
28 the lesser of the average wage for all insured private employers in the  
29 State and the average wage for all insured private employers in the  
30 county in which the datacenter is located. The wage standard for a  
31 development tier two area or a development tier three area is an  
32 average weekly wage that is at least equal to one hundred ten percent  
33 (110%) of the lesser of the average wage for all insured private  
34 employers in the State and ninety percent (90%) of the average wage  
35 for all insured private employers in the county in which the datacenter  
36 is located.
- 37 b. The Secretary of Commerce has made a written determination that at  
38 least seventy-five million dollars (\$75,000,000) in private funds has  
39 been or will be invested by one or more owners, users, or tenants of  
40 the datacenter within five years of the date the owner, user, or tenant  
41 of the datacenter makes its first real or tangible property investment in  
42 the datacenter on or after January 1, 2012. Investments in real or  
43 tangible property in the datacenter made prior to January 1, 2012, may  
44 not be included in the investment required by this subdivision.
- 45 c. The datacenter certifies that it provides or will provide health  
46 insurance for all of its full-time ~~employees~~employees as long as the  
47 datacenter operates. The datacenter provides health insurance if it pays  
48 or will pay at least fifty percent (50%) of the premiums for health care  
49 coverage that equals or exceeds the minimum provisions of the basic  
50 health care plan of coverage recommended by the Small Employer  
51 Carrier Committee pursuant to G.S. 58-50-125.

1 ...  
2 (33i) Remodeling. – A transaction comprised of multiple services performed by one  
3 or more persons to restore, improve, alter, or update real property that may  
4 otherwise be subject to tax as repair, maintenance, and installation services if  
5 separately performed. The term includes a transaction where the internal  
6 structure or design of one or more rooms or areas within a room or building  
7 are substantially changed. The term does not include a single service that is  
8 included in repair, maintenance, and installation service-services. The term  
9 does not include a transaction where the true purpose is a repair, maintenance,  
10 and installation ~~service-services~~ no matter that another service included in  
11 repair, maintenance, and installation service-services is performed that is  
12 incidental to the true purpose of the transaction; examples include repair of  
13 sheetrock that includes applying paint, replacement of cabinets that includes  
14 installation of caulk or molding, and the installation of hardwood floors that  
15 includes installation of shoe molding.

16 ...  
17 (33l) Repair, maintenance, and installation services. – The term includes the  
18 activities listed in this subdivision and applies to tangible personal property,  
19 motor vehicle, digital property, and real property. The term does not include  
20 services used to fulfill a real property contract taxed in accordance with  
21 G.S. 105-164.4H:

- 22 ...  
23 d. To install, apply, connect, adjust, or set into position tangible personal  
24 ~~property, digital property, or a motor vehicle.~~ property or digital  
25 property. The term includes floor refinishing and the installation of  
26 carpet, flooring, floor coverings, windows, doors, cabinets,  
27 countertops, and other installations where the item being installed may  
28 replace a similar existing item. The replacement of more than one of a  
29 like-kind item, such as replacing one or more windows, is a ~~single~~  
30 ~~repair, maintenance, and installation service-services.~~ The term does  
31 not include an installation defined as a capital improvement under  
32 subdivision (2c)d. of this ~~section-section~~ and substantiated as a capital  
33 improvement under G.S. 105-164.4H(a1).  
34 e. To inspect or monitor property or install, apply, or connect tangible  
35 personal property or digital property on a motor vehicle, but does not  
36 ~~include security or similar monitoring services for real~~  
37 ~~property-vehicle~~ or adjust a motor vehicle.

38 ...  
39 (36) Sale or selling. – The transfer for consideration of title, license to use or  
40 consume, or possession of tangible personal property or digital property or the  
41 performance for consideration of a service. The transfer or performance may  
42 be conditional or in any manner or by any means. The term ~~includes-applies~~  
43 to the following:  
44 a. Fabrication of tangible personal property for consumers by persons  
45 engaged in business who furnish either directly or indirectly the  
46 materials used in the fabrication work.  
47 b. Furnishing or preparing tangible personal property consumed on the  
48 premises of the person furnishing or preparing the property or  
49 consumed at the place at which the property is furnished or prepared.  
50 c. A transaction in which the possession of the property is transferred but  
51 the seller retains title or security for the payment of the consideration.

- 1 d. A lease or rental.
- 2 e. Transfer of a digital code.
- 3 f. An accommodation.
- 4 g. A service contract.
- 5 h. Any other item subject to tax under this Article.
- 6 (37) Sales price. – The total amount or consideration for which tangible personal
- 7 property, digital property, or services are sold, leased, or rented. The
- 8 consideration may be in the form of cash, credit, property, or services. The
- 9 sales price must be valued in money, regardless of whether it is received in
- 10 money.
- 11 a. The term includes all of the following:
- 12 ...
- 13 7. Credit for trade-in. The amount of any credit for trade-in is not
- 14 a reduction of the sales price.
- 15 8. ~~Discounts~~ The amount of any discounts that are reimbursable
- 16 by a third party and can be determined at the time of sale
- 17 through any of the following:
- 18 I. Presentation by the consumer of a coupon or other
- 19 documentation.
- 20 II. Identification of the consumer as a member of a group
- 21 eligible for a discount.
- 22 III. The invoice the retailer gives the consumer.
- 23 b. The term does not include any of the following:
- 24 ...
- 25 ...
- 26 (38b) Service contract. – A contract where the obligor under the contract agrees to
- 27 maintain, monitor, inspect, repair, or provide another service included in the
- 28 definition of repair, maintenance, and installation ~~service~~ services to digital
- 29 property, tangible personal property, or real property for a period of time or
- 30 some other defined measure. The term does not include a single service
- 31 included in repair, maintenance, or installation ~~service~~ services, but does
- 32 include a contract where the obligor may provide a service included in the
- 33 definition of repair, maintenance, and installation services as a condition of
- 34 the contract. The term includes a service contract for a pool, fish tank, or
- 35 similar aquatic feature and a home warranty. Examples include a warranty
- 36 agreement other than a manufacturer's warranty or dealer's warranty provided
- 37 at no charge to the purchaser, an extended warranty agreement, a maintenance
- 38 agreement, a repair agreement, or a similar agreement or contract.
- 39 ...
- 40 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as
- 41 amended as of ~~May 11, 2017~~ May 3, 2018.
- 42 ...
- 43 (49) Use. – The exercise of any right, power, or dominion whatsoever over tangible
- 44 personal property, digital property, or a service by the purchaser of the
- 45 property or service. The term includes withdrawal from storage, distribution,
- 46 installation, affixation to real or personal property, and exhaustion or
- 47 consumption of the property or service by the owner or purchaser. The term
- 48 does not include ~~the following~~:
- 49 a. ~~A~~ a sale of property tangible personal property, digital property, or a
- 50 service in the regular course of business.

- b. ~~A purchaser's use of tangible personal property or digital property in any of the circumstances that would exclude the storage of the property from the definition of "storage" in subdivision (44) of this section.~~

...."

**SECTION 4.1.(c)** Subsection (a) of this section is effective retroactively to January 1, 2017. If the amendment to G.S. 105-164.3(20), as enacted by subsection (a) of this section, increases sales and use tax liability, then it becomes effective when this act becomes law.

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

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

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

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

- (1a) The general rate applies to the sales price of each of the following items sold at retail, including all accessories attached to the item when it is delivered to the ~~purchaser~~ purchaser, and to the sales price of or the gross receipts derived from repair, maintenance, and installation services for each of the following items. The items taxable under this subdivision are as follows:

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

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

...

1 (6b) The general rate applies to the sales price of digital property that is sold at  
2 retail and that is listed in this subdivision, is delivered or accessed  
3 electronically, is not considered tangible personal property, and would be  
4 taxable under this Article if sold in a tangible medium. The tax applies  
5 regardless of whether the purchaser of the item has a right to use it  
6 permanently or to use it without making continued payments. This subdivision  
7 applies to the sales price of or gross receipts derived from repair, maintenance,  
8 and installation services to digital property. The tax does not apply to a service  
9 that is taxed under another subdivision of this subsection or to an information  
10 service. The following property is subject to tax under this subdivision:

11 ...

12 ...  
13 (16) The general rate applies to the sales price of or the gross receipts derived from  
14 repair, maintenance, and installation services for real property and generally  
15 includes any tangible personal property or digital property that becomes a part  
16 of or is applied to a purchaser's property. A mixed transaction contract and a  
17 real property contract are taxed in accordance with G.S. 105-164.4H."

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

19 **"§ 105-164.4B. Sourcing principles.**

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

25 ...

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

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

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

- 34 (1) An amount paid solely for the right to ~~participate~~-participate, other than to be  
35 a spectator, in sporting activities. Examples of these types of charges include  
36 bowling fees, golf green fees, and gym memberships.  
37 (2) Tuition, registration fees, or charges to attend instructional seminars,  
38 conferences, or workshops for educational purposes.  
39 (3) A political contribution.  
40 (4) A charge for lifetime seat rights, lease, or rental of a suite or box for an  
41 entertainment activity, provided the charge is separately stated on an invoice  
42 or similar billing document given to the purchaser at the time of sale.  
43 (5) An amount paid solely for transportation.  
44 (6) An amount paid for the right to participate, other than to be a spectator, in the  
45 following activities:  
46 a. Rock climbing, skating, skiing, snowboarding, sledding, zip lining or  
47 other similar activities.  
48 b. Instruction classes related to the items included in sub-subdivision a.  
49 of this subdivision.  
50 c. Riding on a carriage, boat, train, plane, horse, chairlift, or other  
51 similar rides.

d. Amusement rides, including a waterslide."

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

"**§ 105-164.4I. Service contracts.**

...

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

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

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

...."

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

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

**SECTION 4.6.(b)** This section is effective retroactively to January 1, 2017, and applies to sales and purchases made on or after that date.

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

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

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

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

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

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

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

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

...

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

a. A manufacturing industry or plant. A manufacturing industry or plant does not include (i) a delicatessen, cafe, cafeteria, restaurant, or

- 1 another similar retailer that is principally engaged in the retail sale of  
 2 foods prepared by it for consumption on or off its premises or (ii) a  
 3 production company.
- 4 b. A contractor or subcontractor if the purchase is for use in the  
 5 performance of a contract with a manufacturing industry or plant.
- 6 c. A subcontractor if the purchase is for use in the performance of a  
 7 contract with a general contractor that has a contract with a  
 8 manufacturing industry or plant.
- 9 ...
- 10 (9) Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints,  
 11 parts, accessories, and supplies sold to any of the following:
- 12 a. The holder of a standard commercial fishing license issued under  
 13 G.S. 113-168.2 for principal use in commercial fishing operations.
- 14 b. The holder of a shellfish license issued under G.S. 113-169.2 for  
 15 principal use in commercial shellfishing operations.
- 16 c. The operator of a for-hire ~~boat, vessel,~~ as defined in G.S. 113-174, for  
 17 principal use in the commercial use of the boat.
- 18 ...
- 19 (13) All of the following ~~drugs,~~ drugs listed in this subdivision, including their  
 20 packaging materials and any instructions or information about the drugs  
 21 included in the package with ~~them;~~them. This subdivision does not apply to  
 22 pet food or feed for animals. The drugs exempt under this subdivision are as  
 23 follows:
- 24 a. Drugs required by federal law to be dispensed only on prescription.
- 25 b. Over-the-counter drugs sold on prescription. This sub-subdivision  
 26 does not apply to purchases of over-the-counter drugs by hospitals and  
 27 other medical facilities for use and treatment of patients.
- 28 c. Insulin.
- 29 ...
- 30 (15) Accounts of purchasers, representing taxable sales, on which the tax imposed  
 31 by this Article has been paid, that are found to be worthless and actually  
 32 charged off for income tax purposes may, at corresponding periods, be  
 33 deducted from gross sales. In the case of a municipality that sells electricity,  
 34 the account may be deducted if it meets all the conditions for charge-off that  
 35 would apply if the municipality were subject to income tax. Any accounts  
 36 deducted pursuant to this subdivision must be added to gross sales if  
 37 afterwards collected. For purposes of this exemption, a worthless account of  
 38 a purchaser is a "bad debt" as allowed under section 166 of the Code. The  
 39 amount calculated pursuant to section 166 of the Code must be adjusted to  
 40 exclude: financing charges or interest, sales or use taxes charged on the sales  
 41 price, uncollectible amounts on property that remains in the possession of the  
 42 seller until the full purchase price is paid, expenses incurred in attempting to  
 43 collect any debt, and repossessed property.
- 44 ...
- 45 (61a) The sales price of or the gross receipts derived from the repair, maintenance,  
 46 and installation services and service contracts listed in this subdivision are  
 47 exempt from tax. Except as otherwise provided in this subdivision, property  
 48 and services used to fulfill either a repair, maintenance, or installation service  
 49 or a service contract exempt from tax under this subdivision are taxable. The  
 50 list of repair, maintenance, and installation services and service contracts  
 51 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 service 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, and a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. G.S. 106-758, and a person who boards horses. 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 and services that may be exempt from sales and use tax under this section are as follows:

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

...".

**SECTION 4.9.(b)** This section is effective retroactively to July 1, 2014. A person who paid sales and use tax on an item exempt from sales and use tax pursuant to

1 G.S. 105-164.13E, as enacted by this section, may apply to the Department of Revenue for a  
2 refund of any excess tax paid to the extent the refund is the result of the change in the law enacted  
3 by this section. A request for a refund must be made on or before October 1, 2018. A request for  
4 a refund received after this date is barred and the provisions of G.S. 105-164.11 do not apply.

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

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

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

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

30 For each applicant, the Secretary shall compute the amount to be refunded as follows. First,  
31 the Secretary shall determine the mileage ratio. The numerator of the mileage ratio is the number  
32 of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes in  
33 this State during the refund period. The denominator of the mileage ratio is the number of miles  
34 the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes both inside  
35 and outside this State during the refund period. Second, the Secretary shall determine the  
36 applicant's proportional liability for the refund period by multiplying this mileage ratio by the  
37 purchase price of the items identified in subdivision (1) of this subsection and then multiplying  
38 the resulting product by the tax rate that would have applied to the items if they had all been  
39 purchased in this State. Third, the Secretary shall refund to each applicant the excess of the  
40 amount of sales and use taxes the applicant paid in this State during the refund period on these  
41 items over the applicant's proportional liability for the refund period."

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

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

45 ...."

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

47 **"§ 105-164.19. Extension of time for making returns and payment.**

48 The Secretary for good cause may extend the time for filing any return under the provisions  
49 of this Article and may grant additional time within which to file the return ~~as he may deem~~  
50 ~~proper, but the time for filing any return shall not be extended for more than 30 days after the~~  
51 ~~regular due date of the return. If the time for filing a return is extended, interest accrues at the~~

1 rate established pursuant to G.S. 105-241.21 from the time the return was due to be filed to the  
2 date of payment and pay the tax due pursuant to G.S. 105-263(b)."

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

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

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

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

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

23 **"§ 105-164.32. Incorrect returns; estimate.**

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

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

29 "(a) Grace Period. – The Department shall take no action to assess any tax due for a filing  
30 period beginning on or after March 1, 2016, and ending ~~before~~ prior to January 1, ~~2018, 2019,~~ if  
31 one or more of the conditions of this subsection apply and the retailer did not receive specific  
32 written advice from the Secretary for the transactions at issue for the laws in effect for the  
33 applicable periods. Except as otherwise provided, this subsection also applies to use tax liability  
34 imposed on a purchaser under G.S. 105-164.6. The conditions are as follows:

- 35 (1) A retailer failed to charge sales tax due on separately stated installation  
36 charges that are part of the sales price of tangible personal property or digital  
37 property sold at retail.
- 38 (2) A person failed to properly classify themselves as a retailer in retail trade for  
39 the period beginning March 1, 2016, and ending December 31, 2016, and did  
40 not charge sales tax on all retail transactions but rather treated some  
41 transactions as real property contracts in error for sales and use tax purposes.  
42 This subdivision does not prohibit the Secretary from assessing use tax on  
43 purchases used to fulfill a transaction erroneously treated as a real property  
44 contract.
- 45 (3) A person treated a transaction as a real property contract in error and did not  
46 collect sales tax on the transaction as a retail sale. This subdivision does not  
47 prohibit the Secretary from assessing use tax on purchases used to fulfill a  
48 transaction erroneously treated as a real property contract.
- 49 (4) A person failed to collect sales tax on the sales price of a service contract for  
50 one or more components, systems, or accessories for a motor vehicle on or  
51 after March 1, 2016, and prior to January 1, 2017, where the contract was sold

- 1 by a motor vehicle dealer, a motor vehicle service agreement company, or a  
 2 motor vehicle dealer on behalf of a motor vehicle service agreement company.
- 3 (5) A person failed to collect sales tax on the retail sale of a service contract for  
 4 tangible personal property that becomes a part of or is affixed to real property.
- 5 (6) A person failed to collect sales tax on the retail sale of a service contract for a  
 6 pool, a fish tank, or similar aquatic feature on or after January 1, 2017, and  
 7 prior to January 1, ~~2018, 2019~~, provided the person paid tax on any purchases  
 8 used to fulfill the service contract.
- 9 (7) A person failed to collect sales tax on the sales price of or the gross receipts  
 10 derived from the retail sale of a home warranty on or after January 1, 2017,  
 11 and prior to January 1, ~~2018, 2019~~, provided the warranty includes coverage  
 12 for real property.
- 13 (8) A person failed to collect sales tax on the taxable portion of a mixed service  
 14 contract for repair, maintenance, and installation services that exceeds ten  
 15 percent (10%) for a transaction prior to January 1, 2017, on or after January 1,  
 16 2017, and prior to January 1, 2019. This subdivision does not prohibit the  
 17 Secretary from assessing use tax on purchases used to fulfill a mixed contract.
- 18 (8a) A person failed to collect sales tax on the taxable portion of a mixed  
 19 transaction contract that exceeds twenty-five percent (25%) for a transaction  
 20 on or after January 1, 2017, and prior to January 1, 2019. This subdivision  
 21 does not prohibit the Secretary from assessing use tax on purchases used to  
 22 fulfill a mixed transaction contract.
- 23 (8b) A person failed to collect sales tax on the taxable portion of a bundled  
 24 transaction that included a contract for two more services, one of which was  
 25 subject to tax and one of which was not subject to tax, for a transaction on or  
 26 after March 1, 2016, and prior to January 1, 2017.
- 27 (9) A person treats a transaction as a real property contract for remodeling instead  
 28 of the retail sale of repair, maintenance, and installation services sold at retail  
 29 prior to January 1, ~~2018, 2019~~. This subdivision does not prohibit the  
 30 Secretary from assessing use tax on purchases used to fulfill the transaction.
- 31 (10) A person failed to collect sales tax on repair, maintenance, and installation  
 32 services for tangible personal property and digital property."

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

34 "(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this  
 35 Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or  
 36 repair tangible personal property pursuant to a service contract exempt from tax under  
 37 G.S. ~~105-164.4(b)(4), 105-164.13(61a)a.~~"

38 **SECTION 4.17.** G.S. 105-164.4H(a1) reads as rewritten:

39 "(a1) Substantiation. – Generally, services to real property are retail sales of or the gross  
 40 receipts derived ~~from~~, from repair, maintenance, and installation services and subject to tax in  
 41 accordance with G.S. 105-164.4(a)(16), unless a person substantiates that a transaction is subject  
 42 to tax as a real property contract in accordance with subsection (a) of this section, subject to tax  
 43 as a mixed transaction in accordance with subsection (d) of this section, or the transaction is not  
 44 subject to tax. A person may substantiate that a transaction is a real property contract or a mixed  
 45 transaction by records that establish the transaction is a real property contract or by receipt of an  
 46 affidavit of capital improvement. The receipt of an affidavit of capital improvement, absent fraud  
 47 or other egregious activities, establishes that the subcontractor or other person receiving the  
 48 affidavit should treat the transaction as a capital improvement, and the transaction is subject to  
 49 tax in accordance with subsection (a) of this section. A person that issues an affidavit of capital  
 50 improvement is liable for any additional tax due on the transaction, in excess of tax paid on  
 51 related purchases under subsection (a) of this section, if it is determined that the transaction is

1 not a capital improvement but rather the transaction is subject to tax as a retail sale. A person  
2 who receives an affidavit of capital improvement from another person, absent fraud or other  
3 egregious activities, is not liable for any additional tax on the gross receipts from the transaction  
4 if it is determined that the transaction is not a capital improvement.

5 The Secretary may establish guidelines for transactions where an affidavit of capital  
6 improvement is not required, but rather a person may establish by records that such transactions  
7 are subject to tax in accordance with subsection (a) of this section."

8 **SECTION 4.18.** G.S. 105-164.22 reads as rewritten:

9 **"§ 105-164.22. Record-keeping requirements, inspection authority, and effect of failure to**  
10 **keep records.**

11 Retailers, wholesale merchants, and consumers must keep records that establish their tax  
12 liability under this Article. The Secretary or a person designated by the Secretary may inspect  
13 these records at any reasonable time during the day.

14 A retailer's records must include records of the retailer's gross income, gross sales, net taxable  
15 sales, and all items purchased for resale. Failure of a retailer to keep records that establish that a  
16 sale is exempt under this Article subjects the retailer to liability for tax on the sale.

17 A wholesale merchant's records must include a bill of sale for each customer that contains  
18 the name and address of the purchaser, the date of the purchase, the item purchased, and the price  
19 at which the wholesale merchant sold the item. Failure of a wholesale merchant to keep these  
20 records for the sale of an item subjects the wholesale merchant to liability for tax at the rate that  
21 applies to the retail sale of the item.

22 A consumer's records must include an invoice or other statement of the purchase price of an  
23 item the consumer purchased from inside or outside the State. Failure of the consumer to keep  
24 these records subjects the consumer to liability for tax on the purchase price of the item, as  
25 determined by the Secretary."

26 **SECTION 4.19.** G.S. 105-237.1 (a)(6) reads as rewritten:

27 "(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is  
28 collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the  
29 best interest of the State and makes one or more of the following findings:

30 ...

31 (6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the  
32 assessment is for sales or use tax the retailer failed to collect or the person  
33 failed to pay on an item taxable under G.S. 105-164.4(a)(10) through (a)(15),  
34 and the retailer or person made a good-faith effort to comply with the sales  
35 and use tax laws. ~~This subdivision expires for assessments issued after July 1,~~  
36 ~~2020. This subdivision applies to assessments for any reporting period ending~~  
37 ~~on or before July 1, 2020.~~

38 ...".

## 39 **PART V. EXCISE TAX CHANGES**

40 **SECTION 5.1.** G.S. 105-113.9(2) reads as rewritten:

41 "(2) The sale of cigarettes to a nonresident ~~wholesaler or retailer registered through~~  
42 ~~the Secretary-purchaser~~ who has no place of business in North Carolina and  
43 who purchases the cigarettes for the purposes of resale not within this State  
44 and where the cigarettes are delivered to the purchaser at the business location  
45 in North Carolina of the distributor who is also licensed as a distributor under  
46 the laws of the state of the nonresident purchaser."

47 **SECTION 5.2.** G.S. 105-113.36 reads as rewritten:

48 **"§ 105-113.36. Wholesale dealer and retail dealer must obtain license.**

49 A wholesale dealer shall obtain for each place of business a continuing tobacco products  
50 license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail dealer shall  
51 obtain for each place of business a continuing tobacco products license and shall pay a tax of ten

1 dollars (\$10.00) for the license. A "place of business" is a place where a wholesale dealer ~~or~~  
 2 ~~where a retail dealer~~ makes tobacco products other than cigarettes or a wholesale dealer or a retail  
 3 dealer receives or stores non-tax-paid tobacco products other than cigarettes."

4 **SECTION 5.3.(a)** Part 5 of Article 2C of Chapter 105 of the General Statutes is  
 5 amended by adding a new section to read:

6 "**§ 105-113.83A. Registration and discontinuance requirements; penalties.**

7 (a) Registration Required. – A person who holds a wine shipper permit issued under  
 8 G.S. 18B-1001.1 or one or more of the following ABC permits issued under Article 11 of Chapter  
 9 18B of the General Statutes must register with the Secretary:

- 10 (1) Unfortified winery.
- 11 (2) Fortified winery.
- 12 (3) Brewery.
- 13 (4) Distillery.
- 14 (5) Wine importer.
- 15 (6) Wine wholesaler.
- 16 (7) Malt beverages importer.
- 17 (8) Malt beverages wholesaler.
- 18 (9) Nonresident malt beverage vendor.
- 19 (10) Nonresident wine vendor.
- 20 (11) Wine Producer.

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

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

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

33 **SECTION 5.3.(b)** This section becomes effective July 1, 2018, and permittees must  
 34 register in accordance with this section on or before December 1, 2018.

35 **SECTION 5.4.** G.S. 105-113.86(b) reads as rewritten:

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

42 **SECTION 5.5.** G.S. 105-259(b)(50) reads as rewritten:

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

46 **SECTION 5.6.** G.S. 105-449.80(a) reads as rewritten:

47 "(a) Rate. – For the period that begins on January 1, 2016, and ends on June 30, 2016, the  
 48 motor fuel excise tax rate is a flat rate of thirty-five cents (35¢) per gallon. For the period that  
 49 begins on July 1, 2016, and ends on December 31, 2016, the motor fuel excise tax rate is a flat  
 50 rate of thirty-four cents (34¢) per gallon. For the calendar years beginning on January 1, 2017,  
 51 the motor fuel excise tax rate is a flat rate of thirty-four cents (34¢) per gallon, multiplied by a

1 percentage. For calendar years beginning on or after January 1, 2018, the motor fuel excise tax  
2 rate is the amount for the preceding calendar year, multiplied by a percentage. The percentage is  
3 one hundred percent (100%) plus or minus the sum of the following:

- 4 (1) The percentage change in population for the applicable calendar year, as  
5 estimated under G.S. 143C-2-2, multiplied by seventy-five percent (75%).
- 6 (2) The annual percentage change in the Consumer Price Index for All Urban  
7 Consumers, multiplied by twenty-five percent (25%). For purposes of this  
8 subdivision, "Consumer Price Index for All Urban Consumers" means the  
9 United States city average for energy index contained in the detailed report  
10 released in the October prior to the applicable calendar year by the Bureau of  
11 Labor Statistics of the United States Department of ~~Labor~~-Labor, or data  
12 determined by the Secretary to be equivalent."

13 **SECTION 5.7.(a)** Section 2(b) of S.L 2016-23 reads as rewritten:

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

39 **SECTION 5.7.(b)** Effective July 1, 2018, Section 2(b) of S.L 2016-23, as rewritten  
40 by Section 5.8.(a) of this act, reads as rewritten:

41 **"SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
42 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section  
43 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment  
44 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel  
45 excise tax rate for an establishment to which permits may be issued pursuant to  
46 G.S. 18B-1006(n1), as enacted by this act, is ~~eighteen cents (18¢)~~twenty cents (20¢) per gallon.  
47 The Revenue Laws Study Committee shall annually compare the motor fuel excise tax rate  
48 imposed by this section with the rate levied by the State of South Carolina on motor fuels and  
49 may recommend a change in the rate imposed by this section to an amount no greater than the  
50 rate then in effect for the State of South Carolina. An establishment designated as a special class  
51 of property by this section may obtain monthly refunds on the difference between the motor fuel

1 excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this section.  
2 The Department shall calculate for each calendar year the difference between the motor fuel  
3 excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by an  
4 establishment classified by this section in the absence of this classification and the motor fuel  
5 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.  
6 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,  
7 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The  
8 difference in taxes shall be carried forward in the records of the Department as deferred taxes.  
9 The deferred taxes for the preceding three calendar years are due and payable on the day this  
10 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,  
11 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the  
12 tax value of the property. A disqualifying event occurs when the title to the real property  
13 underlying the establishment is transferred to a new owner. A lien for deferred taxes is  
14 extinguished when the amount required by this subsection is paid."

15 **SECTION 5.7.(c)** Effective July 1, 2019, Section 2(b) of S.L 2016-23, as rewritten  
16 by Section 5.8.(b) of this act, reads as rewritten:

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

42 **SECTION 5.7.(d)** Effective July 1, 2020, Section 2(b) of S.L 2016-23, as rewritten  
43 by Section 5.8.(c) of this act, reads as rewritten:

44 "**SECTION 2.(b)** An establishment to which permits may be issued pursuant to  
45 G.S. 18B-1006(n1), as enacted by this act, is designated a special class of property under Section  
46 2(2) of Article V of the North Carolina Constitution, and the motor fuel sold by that establishment  
47 is taxable in accordance with this section. Notwithstanding G.S. 105-449.80, the motor fuel  
48 excise tax rate for an establishment to which permits may be issued pursuant to  
49 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-two cents (22¢)~~twenty-four cents (24¢) per  
50 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
51 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels



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

18 **SECTION 5.7.(e)** Effective July 1, 2021, Section 2(b) of S.L 2016-23, as rewritten  
19 by Section 5.8.(d) of this act, reads as rewritten:

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

45 **SECTION 5.7.(f)** Effective July 1, 2022, Section 2(b) of S.L 2016-23, as rewritten  
46 by Section 5.8.(e) of this act, reads as rewritten:

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

1 G.S. 18B-1006(n1), as enacted by this act, is ~~twenty-six cents (26¢)~~ twenty-eight cents (28¢) per  
2 gallon. The Revenue Laws Study Committee shall annually compare the motor fuel excise tax  
3 rate imposed by this section with the rate levied by the State of South Carolina on motor fuels  
4 and may recommend a change in the rate imposed by this section to an amount no greater than  
5 the rate then in effect for the State of South Carolina. An establishment designated as a special  
6 class of property by this section may obtain monthly refunds on the difference between the motor  
7 fuel excise tax imposed under G.S. 105-449.80 and the motor fuel excise tax imposed by this  
8 section. The Department shall calculate for each calendar year the difference between the motor  
9 fuel excise tax that would have been imposed under G.S. 105-449.80 on the motor fuel sold by  
10 an establishment classified by this section in the absence of this classification and the motor fuel  
11 excise tax that was imposed on the motor fuel sold by the establishment due to the classification.  
12 The difference in taxes, together with any interest, penalties, or costs that may accrue thereon,  
13 are a lien on the real property underlying the establishment as provided in G.S. 105-355(a). The  
14 difference in taxes shall be carried forward in the records of the Department as deferred taxes.  
15 The deferred taxes for the preceding three calendar years are due and payable on the day this  
16 subsection becomes ineffective due to the occurrence of a disqualifying event; provided,  
17 however, the amount collected for deferred taxes pursuant to this subsection does not exceed the  
18 tax value of the property. A disqualifying event occurs when the title to the real property  
19 underlying the establishment is transferred to a new owner. A lien for deferred taxes is  
20 extinguished when the amount required by this subsection is paid."  
21

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

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

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

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

31 "(1) Business entity. – A corporation, a limited liability company, or a  
32 partnership, regardless of whether the entity is suspended under G.S. 105-230 or is  
33 dissolved under Article 14 of Chapter 55 of the General Statutes or under Article 6 of Chapter  
34 57D of the General Statutes."

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

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

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

42 **"§ 105-282.1. Applications for property tax exemption or exclusion; annual review of**  
43 **property exempted or excluded from property tax.**

44 (a) Application. – Every owner of property claiming exemption or exclusion from  
45 property taxes under the provisions of this Subchapter has the burden of establishing that the  
46 property is entitled to it. If the property for which the exemption or exclusion is claimed is  
47 appraised by the Department of Revenue, the application shall be filed with the Department.  
48 Otherwise, the application shall be filed with the assessor of the county in which the property is  
49 situated. An application must contain a complete and accurate statement of the facts that entitle  
50 the property to the exemption or exclusion and must indicate the municipality, if any, in which  
51 the property is located. Each application filed with the Department of Revenue or an assessor

1 shall be submitted on a form approved by the Department. Application forms shall be made  
2 available by the assessor and the Department, as appropriate.

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

5 ...  
6 (2) Single application required. – An owner of one or more of the following  
7 properties eligible for a property tax benefit must file an application for the  
8 benefit to receive it. Once the application has been approved, the owner does  
9 not need to file an application in subsequent years unless new or additional  
10 property is acquired or improvements are added or removed, necessitating a  
11 change in the valuation of the property, or there is a change in the use of the  
12 property or the qualifications or eligibility of the taxpayer necessitating a  
13 review of the benefit.

14 ...  
15 b. Special classes of property excluded from taxation under  
16 G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (31e), (35),  
17 (36), (38), (39), (41), ~~or (45)(45)~~, (46), (47), (48), or (49) or under  
18 G.S. 131A-21.

19 ...."

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

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

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

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

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

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

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

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

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

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

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

16 **"§ 130A-247. Definitions.**

17 The following definitions shall apply throughout this Part:

18 ...

19 (5a) "Bed and breakfast home" means a business in a private home of not more  
20 than eight guest rooms that offers bed and breakfast accommodations for a  
21 period of less than one week and that meets all of the following criteria:

- 22 a. Does not serve food or drink to the general public for pay.
- 23 b. Serves the breakfast meal, the lunch meal, the dinner meal, or a  
24 combination of all or some of these three meals, only to overnight  
25 guests of the home.
- 26 c. Includes the price of breakfast in the room rate. The price of additional  
27 meals served ~~may be added to the room rate~~ shall be listed as a separate  
28 charge on the overnight guest's bill at the conclusion of the overnight  
29 guest's stay.
- 30 d. Is the permanent residence of the owner or the manager of the  
31 business.

32 (6) "Bed and breakfast inn" means a business of at least nine but not more than  
33 12 guest rooms that offers bed and breakfast accommodations for a period of  
34 less than one week, and that meets all of the following requirements:

- 35 a. Does not serve food or drink to the general public for pay.
- 36 b. Serves the breakfast meal, the lunch meal, the dinner meal, or a  
37 combination of all or some of these three meals only to overnight  
38 guests of the business.
- 39 c. Includes the price of breakfast in the room rate. The price of additional  
40 meals served ~~may be added to the room rate at the conclusion of the~~  
41 ~~overnight guest's stay~~ shall be listed as a separate charge on the  
42 overnight guest's bill at the conclusion of the overnight guest's stay.
- 43 d. Is the permanent residence of the owner or the manager of the  
44 business.

45 ..."

46 **SECTION 6.5.(b)** This section becomes effective July 1, 2018, and applies to gross  
47 receipts derived from the rental of an accommodation that a consumer occupies or has the right  
48 to occupy on or after that date. A retailer is not liable for an undercollection of sales tax,  
49 occupancy tax, or prepared food and beverage tax if the retailer has made a good faith effort to  
50 comply with the law and collect the proper amount of tax and has, due to the change under this  
51 section, undercollected the amount of sales tax, occupancy tax, or prepared food and beverage

1 tax that is due. A retailer is liable for all taxes collected whether in error or otherwise. This  
2 subsection applies only to the period beginning January 1, 2018, and ending July 1, 2018.

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

7 (1) A municipality that does not own or operate a water or sewer system may use  
8 part or all of the restricted sales and use tax revenue for any lawful purpose  
9 upon adoption of a resolution. A municipality that adopts a resolution  
10 releasing the sales and use tax revenue from the repealed restriction pursuant  
11 to this subdivision must provide written notice to the Secretary of the Local  
12 Government Commission that the funds are unrestricted within 30 days of the  
13 adoption of the resolution.

14 (2) A municipality that owns or operates a water or sewer system must use the  
15 revenue for its restricted purpose. The municipality may petition the Local  
16 Government Commission to waive part or all of the restriction, as allowed  
17 under G.S. 105-487(c).

18 **SECTION 6.7.** G.S. 105-320(b) is repealed.

19 **SECTION 6.8.(a)** G.S. 105-129.39 reads as rewritten:

20 **"§ 105-129.39. Sunset.**

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

25 **SECTION 6.8.(b)** G.S. 105-129.110 reads as rewritten:

26 **"§ 105-129.110. Sunset.**

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

31  
32 **SECTION 6.9.** G.S. 105-160.3(b) reads as rewritten:

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

35 **SECTION 6.10.(a)** G.S. 115C-595(c) is repealed.

36 **SECTION 6.10.(b)** This section is effective for taxable years beginning on or after  
37 January 1, 2018.

38 **SECTION 6.11.** G.S. 105-163.7(b) reads as rewritten:

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

50 **SECTION 6.12.** G.S. 105-251.2(b) reads as rewritten:

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

9           (1) An ABC store in the ABC system, as defined in G.S. 18B-101.

10          (2) A wine wholesaler, as defined in G.S. 18B-1201.

11          (3) A wholesaler, as defined in G.S. 18B-1301.

12          (4) The holder of an unfortified winery permit, a fortified winery permit, a  
13 brewery permit, or a distillery permit under G.S. 18B-1100."

14       **SECTION 6.13.** G.S. 105-263 reads as rewritten:

15       **§ 105-263. Timely filing of mailed documents and requests for extensions.**

16       (a) Mailed Document. – Sections 7502 and 7503 of the Code govern when a return,  
17 report, payment, or any other document that is mailed to the Department is timely filed.

18       (b) Extension. – The Secretary may extend the time in which a person must file a return  
19 with the Secretary. To obtain an extension of time for filing a return, a person must comply with  
20 any application requirement set by the Secretary. An extension of time for filing a franchise tax  
21 return or an income tax return does not extend the time for paying the tax due or the time when  
22 a penalty attaches for failure to pay the tax. An extension of time for filing any return other than  
23 a franchise tax return or an income tax return extends the time for paying the tax due and the time  
24 when a penalty attaches for failure to pay the tax. When an extension of time for filing a return  
25 extends the time for paying the tax expected to be due with the return, interest, at the rate  
26 established pursuant to G.S. 105-241.21, accrues on the tax due from the original due date of the  
27 return to the date the tax is paid.

28       (c) Electronic Documents. – The Secretary shall prescribe when a return, report,  
29 payment, or any other document that is electronically submitted to the Department is timely  
30 filed."

31       **SECTION 6.14.** Article 9 of Chapter 105 of the General Statutes is amended by  
32 adding a new section to read:

33       "**§ 105-241A. Electronic Filing of Returns**

34       (a) Purpose. – The General Assembly finds that the various statutes within Chapter 105  
35 that address the filing of tax returns or informational returns were originally drafted for the use  
36 of paper returns submitted either personally or through the mail. Through technological  
37 advances, there are many methods by which tax returns can be filed electronically that can be  
38 processed more efficiently by the Department of Revenue, are easier and more convenient for  
39 taxpayers, improve the accuracy of the return, and are safer to use with respect to identity theft.

40       The General Assembly further finds that, in some cases, it is proper to require returns to be  
41 filed electronically, while in other cases it is more appropriate to provide electronic filing as an  
42 option instead of a requirement. In addition, the General Assembly recognizes that because of  
43 constant technological advances, it is necessary to allow the Department of Revenue flexibility  
44 to provide specific guidance for how to file returns electronically, with a goal of continually  
45 improving the process and reducing the costs of and time to process returns.

46       (b) Electronically Filed Returns. – The Department shall offer electronic filing for returns  
47 required under this Chapter if the Department determines that it is cost-effective to do so and the  
48 Department has established and implemented procedures to electronically file specific returns.

49       (c) Form of Filing Electronically; Electronic Signature. – The Secretary shall prescribe  
50 the form of electronically filing each return that is required to or may be filed electronically and  
51 how the taxpayer or return preparer signs an electronically filed return.

1       (d)    Waiver of Requirement to File Electronically. – The Secretary may, upon showing of  
2 good cause, waive any electronic submission requirement for returns required to be filed  
3 electronically under this Chapter.

4       (e)    Notice to Taxpayers. – The Department shall, by December 1 of each year, publish  
5 on its website a list of returns required to be filed electronically and permitted to be filed  
6 electronically during the next calendar year."

7  
8 **PART VII. EFFECTIVE DATE**

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