

# 2016 FINANCE LAW CHANGES

See full summary documents for additional detail

## **H533 - Modify Present Use Value Exceptions to Disqualification.**

### **Sec. 1: Modify Present Use Value Exceptions to Disqualification. (SL 2016-76)**

Sec. 1 of S.L. 2016-76 pro rates deferred taxes when real property is transferred for less than its fair market value to a nonprofit entity for conservation or historical preservation, the State or a political subdivision of the State, or the United States.

This section became effective for taxes imposed for taxable years beginning on or after July 1, 2016

## **H533 - Modify Present Use Value Exceptions to Disqualification.**

### **Sec. 2: Administrative Review of Statute of Limitations Determinations by Department of Revenue. (SL 2016-76)**

Sec. 2 of S.L. 2016-76 allows a taxpayer to contest before the Office of Administrative Hearings the determination by the Department of Revenue that the taxpayer's amended return or claim for refund were filed outside the statute of limitations.

Sec. 2 of this act became effective June 30, 2016, and the act allows a taxpayer to appeal a past denial of an amended return or claim for refund due to the statute of limitations if the taxpayer appeals the denial within 60 days of June 30, 2016.

## **H1023 - Municipal Service Districts/Statutory Changes. (SL 2016-8)**

S.L. 2016-8 requires additional accounting of certain contractors of cities with respect to municipal service districts, requires that an ordinance to establish a municipal service district be adopted at two separate meetings of the city council, and establishes a process by which property owners may petition for creation or reduction of a municipal service district. This act was recommended by the Legislative Research Commission Committee on Municipal Service Districts.

This act became effective June 1, 2016, and applies to contracts entered into on or after that date.

## **H1030 - 2016 Appropriations Act.**

### **Sec. 6.1: Establishing or Increasing Fees. (SL 2016-94)**

Sec. 6.1 of S.L. 2016-94 provides that:

- An agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee to the level authorized or anticipated in the Appropriations Act of 2016.
- An agency may adopt an emergency rule to establish or increase a fee as authorized by the Appropriations Act of 2016, if the adoption of a rule would otherwise be required by law.

This section became effective July 1, 2016.

### **H1030 - 2016 Appropriations Act.**

#### **Sec. 23.1: Insurance Regulatory Charge. (SL 2016-94)**

G.S. 58-6-25 requires an annual insurance regulatory charge be levied on each insurance company, other than a captive insurance company. Sec. 23.1 of S.L. 2016-94 sets the percentage rate to be used in calculating the insurance regulatory charge at 6.5% for the 2017 calendar year.

This section became effective July 1, 2016.

### **H1030 - 2016 Appropriations Act.**

#### **Sec. 38.1: Increase Zero Tax Bracket. (SL 2016-94)**

Sec. 38.1 of S.L. 2016-94 increases the standard deduction by \$2,000 over two years, beginning in 2016:

- \$1,000 to \$16,500 (married, filing jointly) for tax year 2016.
- \$1,000 to \$17,500 (married, filing jointly) for tax year 2017, and subsequent years.

This section became effective July 1, 2016.

### **H1030 - 2016 Appropriations Act.**

#### **Sec. 38.2: Expand Taxation of Mill Machinery. (SL 2016-94)**

Sec. 38.2 of S.L. 2016-94, as amended by Secs. 11.1 and 11.3 of S.L. 2016-123, expands the preferential tax treatment of certain machinery and equipment subject to the 1% / \$80 tax by adding provisions for the following:

- Parts, accessories, or attachments for equipment that is currently eligible for a company located at a ports facility. This provision became effective July 14, 2016, and applies retroactively to purchases made on or after July 1, 2013.
- Secondary metal recyclers, effective for purchases made on or after July 1, 2016. The equipment must be used in a process that converts ferrous or nonferrous metals or other items that have served their original purpose into new or different products for sale.
- Precious metal processors, effective for purchases made on or after July 1, 2016. This provision applies to a company that processes tangible personal property for the purpose of extracting precious metals regardless of whether the company owns the property being processed.
- Metal fabricators that derive more than \$8 million annually from the fabrication or manufacture of metal products, effective for purchases made on or after July 1, 2016. This

provision applies regardless of whether the products manufactured are for sale or for the company's own use.

## **H1030 - 2016 Appropriations Act.**

### **Sec. 38.4: Market-Based Sourcing. (SL 2016-94)**

Beginning in 2018, North Carolina will use a single sales factor apportionment formula for apportioning the corporate income and franchise tax liability of multistate corporations. Single sales factor apportionment provides an incentive for multistate corporations to select North Carolina as their primary state to conduct business activities, unless the corporation provides a service instead of a product. Single sales factor apportionment does not provide the same incentive to a multistate company that provides services, because its sales factor is not based on the percentage of income derived from consumption of the company's services in the North Carolina marketplace. Consequently, states that adopt a single sales factor apportionment incentive usually adopt a market-based calculation of the sales factor for all multistate corporations, including those that provide services. This section does not enact market-based sourcing however; it does direct the Department of Revenue to adopt rules to implement market-based sourcing by January 1, 2017. The rules, if approved by the Rules Review Commission, cannot be entered into the Administrative Code until the General Assembly enacts market-based sourcing legislation and directs the Codifier of Rules to do so. The provision ensures that the General Assembly, and the public, will know what the rules pertaining to market-based sourcing would be if the General Assembly decides to enact market-based sourcing legislation in the future.

This section became effective July 14, 2016.

## **H1030 - 2016 Appropriations Act.**

### **Sec. 38.5: Sales Tax Changes. (SL 2016-94)**

Sec. 38.5 of S.L. 2016-94, as amended by Part XI of S.L. 2016-123, does the following:

- Provides a grace period for retailers who provide repair, maintenance, and installation services. This part of the section became effective July 14, 2016, and the relief provided for related transactions applies retroactively to January 1, 2015.
- Amends the sales tax on repair, maintenance, and installation services to treat similar transactions the same and to identify taxable transactions more clearly. In treating similar transactions the same, the act expands the sales tax base to include repair and maintenance of real property. This part of the section becomes effective January 1, 2017.
- Allows a use tax exemption equal to the amount of the installation charges and sales price of, or gross receipts derived from, the repair, maintenance, and installation services that exceed \$25,000 for a boat, aircraft, or qualified jet engine. This part of the section became effective July 1, 2016.
- Repeals the \$17.6 million State contribution to local sales and use tax revenue distributed to counties and cities, effective for fiscal years beginning on or after July 1, 2016. The contribution would have become effective July 1, 2016; thus, the repeal nullifies the contribution before it became effective.
- Allows a sales tax exemption for products made of more than 75% recycled material by weight if the products are sold for use in an accepted wastewater dispersal system. The exemption becomes effective October 1, 2016.

## **H1030 - 2016 Appropriations Act.**

### **Sec. 38.6: Property Tax Exclusion Extension. (SL 2016-94)**

Sec. 38.6 of S.L. 2016-94 continues to allow a property tax exemption for contiguous tracts of land donated to a nonprofit that were previously used for commercial or industrial purposes and significantly damaged by fire or explosion. The exemption was enacted in 2011 in response to the explosion of the ConAgra plant in June 2009.

This section became effective July 14, 2016. The property tax exemption is effective for taxable years beginning on or after July 1, 2011, and expires for taxable years beginning on or after July 1, 2021. Prior to the enactment of this section, the exemption would have expired for taxable years beginning on or after July 1, 2016.

## **H1035 - Local Government Commission/Training for Local Government Finance Officers. (SL 2016-84)**

S.L. 2016-84 authorizes the Local Government Commission to require certain local government and public authority finance officers, or other employees who perform the duties of a finance officer, to attend training as to the powers, duties and responsibilities of a finance officer, and to charge a fee for the training.

This act became effective June 30, 2016.

## **S105 - Report Number of Veterans Filing Tax Returns. (SL 2016-112)**

S.L. 2016-112 requires the Secretary of Revenue to provide a space on the individual income tax form D-400 for the voluntary disclosure of veteran status by persons filing State income tax returns, to use the information so disclosed to compile aggregate summary information on the number of veterans filing tax returns in North Carolina annually, and to provide this information to the Department of Military and Veterans Affairs.

This act became effective July 26, 2016

## **S481 - Fund Small Businesses/Department of Revenue Rulings/City Rights of Way.**

### **Part II: Public Disclosure of Written Determinations Made by the Department of Revenue. (SL 2016-103)**

Part II of S.L. 2016-103 requires the Department of Revenue publish on its Web site redacted versions of written determinations responding to taxpayer questions within 90 days after the determination was issued.

This Part II became effective July 22, 2016, and the Department of Revenue must publish redacted versions of determinations issued on or after January 1, 2010, within 120 days of that date.

## **S575 - North Carolina/South Carolina Original Boundary Confirmation. (SL 2016-23)**

S.L. 2016-23 addresses several legal and tax issues related to the reestablishment of the original boundary line existing between North Carolina and South Carolina. North Carolina and South Carolina created a Joint Boundary Commission to relocate and reestablish their 334-mile common boundary. The Commission began its work in 1995 and completed the technical part of its work by May of 2013. For the last three years, efforts have been underway to reduce or eliminate the impact of the work on property owners whose residency or business would be moved from South Carolina to North Carolina, or vice versa, because of the reestablished boundary line. This act addresses not only the tax consequences of the reestablished boundary line but also other issues, such as public education enrollment and drivers licenses. South Carolina enacted similar legislation in June 2016: Act 270, Ratified 292, and Senate Bill 667.

This act became effective June 22, 2016. It is anticipated that the process to complete the reestablishment of the boundary line will be completed by the end of this calendar year. The boundary must be approved by the Governor and the Council of State before the Governor may issue a proclamation declaring the reestablished line as the true boundary line between North Carolina and South Carolina.

## **S726 - Internal Revenue Code (IRC) Update. (SL 2016-6)**

S.L. 2016-6, as amended by Sec. 1.2 of S.L. 2016-92, updates from January 1, 2015, to January 1, 2016, the reference to the Internal Revenue Code used in determining certain State tax provisions. The act does not conform to the extensions listed below under the federal Protecting Americans from Tax Hikes Act of 2015 (PATH Act), but it does conform to the \$250 teacher expense deduction and to the income exclusion for amounts received by wrongfully incarcerated individuals.

The act does not conform to the following two provisions that were made permanent at the federal level:

- Enhanced Section 179 expensing.
- Tax-free distribution from IRAs to public charities.

The act does not conform to the following three provisions that were extended at the federal level through the 2016 taxable year:

- Deduction for higher education tuition expenses.
- Exclusion from income for forgiveness of debt on principal residence.
- Deduction for mortgage insurance premiums.

This act became effective on June 1, 2016. North Carolina has decoupled from the above-named provisions for taxable years beginning on or after 2013.

## **S729 - Various Changes to the Revenue Laws. (SL 2016-5)**

S.L. 2016-5 makes various changes to the Revenue Laws including the following changes with broader impact:

- Limits the qualified interest expense deduction for interest paid to a related corporation to 15% (from 30%) of acorporate taxpayer's adjusted taxable income and allows an unlimited qualified interest expense deduction if the corporate taxpayer can trace the interest expense to a unrelated lender.
- Restores a miscellaneous itemized deduction applicable when individual taxpayers restores a substantial amount held under claim of right that the taxpayer included in gross income for a prior taxable year because it appeared that taxpayer had an unrestricted right to that item.
- Adds a deduction for individual taxpayers who report business income on a Schedule C to equalize treatment of individual taxpayers and corporate taxpayers reporting ordinary and necessary business expenses where the expense was taken as a tax credit for federal purposes.
- Provides that individual taxpayers must adjust federal adjusted gross income to prevent a double benefit of the federal net operating loss (NOL) carryover.
- Repeals the sales tax exemption for items sold by a nonprofit organization when the receipts from the sale of the items will be directly or indirectly contributed to the State or school.
- Creates a new sales tax exemption for food, prepared food, soft drinks, and other items of tangible personal property sold not for profit for or at an event that is sponsored by an elementary or secondary school when the net proceeds will be given to the school.
- Disallows the State government's sales tax exemption and sales tax refund of local taxes paid on indirect purchases for occupational licensing boards and State governmental entities that are specifically designated to apply for a sales tax refund under G.S. 105-164.14.

This act became effective May 11, 2016; however, most sections have an effective date based on the tax reporting period for the type of tax. Please see the full summary for additional detail.

## **S770 - North Carolina Farm Act of 2016.**

### **Sec. 10: Extend Sunset for Constructing Certain Renewable Fuel Facilities. (SL 2016-113)**

Sec. 10 of S.L. 2016-113 extends for three years the sunset for the tax credit for constructing a commercial facility that processes renewable fuel but only for a taxpayer that signed a letter of commitment with the Department of Commerce to that effect prior to September 1, 2013, and that began construction of the facility prior to January 1, 2014.

This section became effective July 26, 2016.

## **S791 - License Plate Agency Commission Contractor Rate Revision and Study. (SL 2016-120)**

S.L. 2016-120 does the following:

- Effective October 1, 2016, directs the Division of Motor Vehicles (DMV) to study the issues with incorrect inspection stops on vehicles and the cumbersome process by which data on federal vehicle inspections is entered into the system. DMV must submit its findings and recommendations to the Joint Legislative Transportation Oversight Committee by December 1, 2017.
- Effective October 1, 2016, compensates a license plate agency commission contractor for the removal of an incorrect inspection stop on a vehicle at a rate of \$1.30 per transaction.
- Provides that the \$1.30 transaction fee is subject to quadrennial increase for inflation.

Except as otherwise provided, this act became effective July 28, 2016.

**S803 - Revenue Laws Technical, Clarifying, and Administrative Changes. (SL 2016-92)**

S.L. 2016-92 makes technical changes to tax statutes, including the following, that amend the result from prior law: (i) allows local governments to share confidential taxpayer information necessary to administer a tax; (ii) limits the look back period to determine the amount of a bond for a Non-Participating Manufacturer under the Master Settlement Agreement to the preceding three calendar years; and (iii) moves the date to calculate employers' tax rate for unemployment insurance taxes to September 1 to include tax payments made in the second quarter of the year.

S.L. 2016-92 generally became effective July 11, 2016; however, several provisions had other effective dates due to reporting periods. Please see the full summary for additional detail.