

# 2018 FINANCE LAW CHANGES

See full summary documents for additional detail

## **H320 - PUV Changes. (SL 2018-95)**

S.L. 2018-95 creates an additional way land may be used to qualify for present-use value (PUV) taxation as wildlife conservation land. Property that qualifies for PUV taxation is appraised and taxed at its present-use value as opposed to its fair market value. S.L. 2018-95 extends the PUV classification and treatment to land that is actively and regularly used as a reserve for hunting, fishing, shooting, wildlife observation, or wildlife activities. If the land qualifies under this new provision, up to 800 acres of land can be classified for PUV taxation.

This act is effective for taxes imposed for taxable years beginning on or after July 1, 2019.

## **H374 - Regulatory Reform Act of 2018.**

### **Sec. 25: Exempt Personal Property of Charter Schools from Property Tax. (SL 2018-114)**

Section 25 of S.L. 2018-114 exempts the personal property of charter schools from property tax so long as the property is wholly and exclusively used for educational purposes.

This section became effective for taxes imposed for taxable years beginning on or after July 1, 2018.

## **H569 - Pretax Supplemental Benefits. (SL 2018-64)**

S.L. 2018-64 provides that supplemental insurance plans offered to State employees through the Employee Insurance Committees may be offered on a pre-tax basis if the offering complies with Section 125 of the Internal Revenue Code.

## **S75 - Const. Amd. - Max. Income Tax Rate of 7.0%. (SL 2018-119)**

S.L. 2018-119 proposes an amendment to the North Carolina Constitution to cap the tax rate on both personal and corporate incomes at 7% for taxable years beginning on or after January 1, 2019, and places that amendment on the ballot in the 2018 general election. The cap is currently 10%.

Except as otherwise provided, the act became effective June 28, 2018.

## **S99 - Appropriations Act of 2018.**

### **Sec. 5.6: Tax Deduction for Certain Hurricane Relief Payments. (SL 2018-5)**

Secs. 5.6(j) and 5.6(k) of the Appropriations Act of 2018, S.L. 2018-5, adds two tax deductions for hurricane relief payments from the State Emergency Response and Disaster Relief Reserve Fund:

- Individual taxpayers may deduct hurricane relief payments from adjusted gross income under new G.S. 105-153.5(b)(13) excluding payments for goods or services provided by the taxpayer.
- Corporate taxpayers may deduct hurricane relief payments from federal taxable income under new G.S. 105-130.5(b)(29) excluding payments for goods or services provided by the taxpayer.

The deductions are effective for taxable years beginning on or after January 1, 2017.

## **S99 - Appropriations Act of 2018.**

### **Sec. 19.3: Military Affairs Commission/Members and Payment of Expenses from BRAC Funds. (SL 2018-5)**

Sec. 19.3 of S.L. 2018-5 amends the laws governing expenditure of funds from the Military Presence Stabilization Fund and the voting authority of members of the General Assembly serving on the North Carolina Military Affairs Commission (NCMAC) to:

- Eliminate the restriction limiting expenditure of certain Military Presence Stabilization Funds to the 2017-2018 fiscal year.
- Require the Department of Military and Veterans Affairs (DMVA) to pay from its appropriations certain expenses approved by the NCMAC within 30 days of receiving a payment request by the NCMAC, and to make payment on any contract or grant awarded by the NCMAC no later than its due date without need of a request from the NCMAC.
- Extend to February 15, 2019, the due date of a report by the NCMAC to the Joint Legislative Oversight Committee on General Government on expenditures from the Military Presence Stabilization Fund.
- Prohibit any member of the General Assembly appointed to the NCMAC from voting on matters that expend funds appropriated by the General Assembly.

This act was vetoed by the Governor on June 6, 2018, and that veto was overridden by the General Assembly on June 12, 2018. This section became effective on July 1, 2018.

## **S99 - Appropriations Act of 2018.**

### **Sec. 35.17: Require Submission of Pay Plan Design. (SL 2018-5)**

Sec. 35.17 of S.L. 2018-5 requires any agency requesting an allocation from the Pay Plan Reserve of the General Fund to first submit to the Office of State Budget and Management (OSBM) a detailed description of the pay plan design, including the salary or salary range at each step within the pay plan, and the criteria for movement between steps of the pay plan.

**S99 - Appropriations Act of 2018.**

**Sec. 35.25: State Troopers Increase/Training Loan Reimbursement. (SL 2018-5)**

Sec. 35.25, as amended by Sec. 8.1 of S.L. 2018-97, implements a new pay plan for the State Highway Patrol and establishes a trooper training cost recovery program applicable after training to cadets and to certain law enforcement employers that hire cadets. To avoid possible federal income tax consequences associated with creating a forgivable loan program, Section 8.1 of the Budget Technical Corrections act (S.L. 2018-97, Senate Bill 335) restructured the program into a contract to reimburse the training expenses if the trooper separates from the Highway Patrol before 36 months of service. Instead of excusing liability monthly under a promissory note effective during training with forgiveness over the 36-month period, a trooper will agree to reimburse the State only if they leave State employment prior to the agreed upon contract period of 36 months. Covered law enforcement employers who hire a trooper who is still under contract requirements will be liable to the State for training costs in the amount of \$36,000.

The changes became effective for the 2018-2019 fiscal year.

**S99 - Appropriations Act of 2018.**

**Sec. 37.5: Exempt DOR/IT from Transition to DIT. (SL 2018-5)**

Sec. 37.5 of S.L. 2018-5, as amended by Sec. 10.4 of S.L. 2018-97, provides that the Department of Revenue is not subject to the migration of information technology functions and personnel to the Department of Information Technology. Sec. 10.4 of S.L. 2018-97 provides that the Community College System Office has until October 1, 2019, to report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on its transition plan to the Department of Information Technology.

Please see the full summary for details on the various effective dates.

**S99 - Appropriations Act of 2018.**

**Sec. 38.1: IRC Update. (SL 2018-5)**

Sec. 38.1 of S.L. 2018-5 updates the reference to the Internal Revenue Code (IRC) from January 1, 2017, to February 9, 2018. Therefore, to the extent North Carolina follows federal tax provisions in calculating State tax liability, changes made to the IRC by the federal Tax Cuts and Jobs Act (TCJA) and the Bipartisan Budget Act of 2018 (Budget Act) will apply to North Carolina.

**S99 - Appropriations Act of 2018.**

**Sec. 38.2: Business Tax Changes. (SL 2018-5)**

Sec. 38.2 of S.L. 2018-5, as amended by Sec. 11.2(a) of S.L. 2018-97, makes various changes to the business tax statutes to make the laws more equitable, intelligible, easier to administer, and concise by eliminating unnecessary provisions.

This section has various effective dates. Please see the full summary for more detail.

**S99 - Appropriations Act of 2018.**

**Sec. 38.3: Federal Determinations and Amended Returns. (SL 2018-5)**

Sec. 38.3 of S.L. 2018-5 makes various changes to the federal corrections statutes, which are statutes that address a taxpayer's obligation when their federal taxable income is changed or corrected at the federal level and that change affects the amount of State tax payable. Specifically, the changes create a distinction between situations where the changes are the result of an action initiated by the Internal Revenue Service (IRS) and situations where the changes are the result of an amended return voluntarily filed by a taxpayer.

This section became effective June 12, 2018, and applies to federal amended returns filed on or after that date.

**S99 - Appropriations Act of 2018.**

**Sec. 38.4: Automatic Extension of Time to File Tax Returns. (SL 2018-5)**

Sec. 38.4 of S.L. 2018-5 provides that a taxpayer who is granted an automatic extension to file a federal income tax return is granted an automatic extension to file a State income and franchise tax return.

This section applies to taxable years beginning on or after January 1, 2019.

**S99 - Appropriations Act of 2018.**

**Sec. 38.5: Sales and Use Tax Changes. (SL 2018-5)**

Sec. 38.5 of S.L. 2018-5 does the following:

- Provides an option for a retailer who pays sales and use tax on property or services, and subsequently resells them at retail, to recover the sales and use taxes the retailer originally paid.
- Extends the Sales Tax Base Expansion Protection Act for an additional year to better ensure retailers with sales tax obligations understand the applicable tax law changes.
- Clarifies the sales and use tax treatment of frequently questioned transactions.
- Streamlines, clarifies, and modernizes statutory language to comport with recent sales and use tax changes.
- Makes other miscellaneous and technical sales and use tax changes.

This section has various effective dates. Please see the full summary for more detail.

**S99 - Appropriations Act of 2018.**

**Sec. 38.6: Excise Tax Changes. (SL 2018-5)**

Sec. 38.6 of S.L. 2018-5 makes various excise tax changes, including the following:

- Requiring certain ABC permit holders to register with the Department of Revenue (Department) in order to aid in tax compliance.

- Increasing the motor fuel rate authorized to be charged by a certain class of gas stations allowed to charge the South Carolina rate due to the gas station being considered in North Carolina because of the NC/SC border recertification in 2016. The rate increase will be 2¢ each year over the next six years, totaling 12¢, to mirror the motor fuel rate increase imposed in South Carolina.

Sec. 38.6(c), requiring certain listed ABC permit holders to register with the Department and to notify the Department when a permittee discontinues their business, becomes effective July 1, 2018.

Except as otherwise provided, this section became effective June 12, 2018.

**S99 - Appropriations Act of 2018.**

**Sec. 38.7: Modified Risk Tobacco Product Tax Reduction. (SL 2018-5)**

Sec. 38.7 of S.L. 2018-5 provides an excise tax rate reduction for modified risk tobacco products. A modified risk tobacco product is a product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially-marketed tobacco products. For a product to qualify as a modified risk tobacco product, it must be issued an order by the United States Food and Drug Administration (FDA). To date, the FDA has not issued any such orders.

This section became effective June 12, 2018.

**S99 - Appropriations Act of 2018.**

**Sec. 38.8: Allow Cities to Use Revenues for Public Education. (SL 2018-5)**

Sec. 38.8 of S.L. 2018-5, as amended by Sec. 11.1 of S.L. 2018-97, authorizes, but does not require, cities to levy property taxes to supplement funding for elementary and secondary public education that benefits the residents of the city and to appropriate those revenues, in addition to any other unrestricted revenues, for that purpose.

This section became effective July 1, 2018, and applies to revenues derived from taxes levied on or after that date.

**S99 - Appropriations Act of 2018.**

**Sec. 38.9: Waive Certain Property Tax Penalties and Interest. (SL 2018-5)**

Sec. 38.9 of S.L. 2018-5, as amended by Sec. 9.5 of S.L. 2018-76, provides an additional circumstance under which certain property tax deadlines are extended to the next business day. The additional circumstance is when all of the following conditions occur on the due date: (i) the tax office is closed, (ii) the U.S. Postal Service did not provide service to the taxpayer's address, and (iii) a disaster has been declared.

This section is effective for taxes imposed for taxable years beginning on or after July 1, 2017.

## **S99 - Appropriations Act of 2018.**

### **Sec. 38.10: Other Tax Changes. (SL 2018-5)**

Sec. 38.10 of S.L. 2018-5 makes several miscellaneous tax changes, including the following:

- Clarifies that when a corporation's articles of incorporation or a limited liability company's articles of organization are suspended, the entity is nevertheless liable for its tax obligations.
- Provides that meals other than breakfast served at a bed and breakfast home or inn must be separately stated rather than added to the room rate. The change more accurately reflects the intended result when the General Assembly changed the law in 2017 to allow bed and breakfast inns to serve lunch and dinner. The effect of this change means that those meals will be subject to State and local sales tax and the prepared food tax, if there is one, but not the occupancy tax.
- Repeals a provision enacted last year that inadvertently created a double tax benefit for funds placed in a Personal Education Savings Account. The deduction will remain in place, but the exclusion from income is repealed. This provision is effective for taxable years beginning on or after January 1, 2018.
- Authorizes the Secretary of Revenue (Secretary) to make provisions for the electronic filing of returns and modifies the penalties related to informational returns in an effort to combat refund fraud and identity theft.

This section has various effective dates. Please see the full summary for more detail.

### **S220 - Motor Fuel Tax Exemption for Joint Agency. (SL 2018-39)**

S.L. 2018-39 exempts a joint agency created by interlocal agreement for the purposes of fire protection, police protection, or emergency services from having to pay motor fuel excise taxes.

This act becomes effective October 1, 2018, and applies to purchases made on or after that date.

### **S411 - Various Motor Vehicle Law Revisions.**

#### **Secs. 6, 7, and 8: Motor Vehicle Taxes. (SL 2018-42)**

Secs. 6, 7, and 8 of S.L. 2018-42 clarify the applicability of local and regional public transportation registration taxes and DMV fee adjustments on motor vehicles sold by a motor vehicle dealer by making clear that the applicable rate or fee is the one in effect on the date of sale, regardless of the date of submission of the title and registration application.

These sections became effective June 22, 2018, and apply to any tax or tax increase with an effective date on or after that date.

### **S412 - Abandoned Vehicles/Charities. (SL 2018-43)**

S.L. 2018-43 does the following:

- Provides a process for used motor vehicle dealers to sell vehicles donated to charitable organizations when the donated vehicle is titled in this State but the title is not provided with the donation.
- Provides that a charitable organization is not required to register and title a vehicle that was donated to the organization solely for purposes of resale.
- Provides that willful and intentional failure to comply with the new statutory process is grounds for denying, suspending, placing on probation, or revoking a motor vehicle dealer's license.
- Exempts a charitable organization where a vehicle was donated to the organization solely for purposes of resale from the definition of motor vehicle dealer.
- Exempts a charitable organization from paying highway use tax for a title issued as the result of a transfer of a vehicle to the organization that was donated solely for purposes of resale.

This act became effective June 22, 2018.

### **S561 - Violate Tax Law/Venue/Property Tax. (SL 2018-98)**

S.L. 2018-98 does the following:

- Exempts from property tax leasehold interests in exempt property. This change is effective for taxes imposed for taxable years beginning on or after July 1, 2019.
- Changes the venue for the prosecution of criminal tax violations from Raleigh to the county where the charged offense occurs. This change becomes effective December 1, 2018, and applies to offenses committed on or after that date.

### **S616 - Heroin & Opioid Prevention & Enforcement Act. (SL 2018-44)**

S.L. 2018-44 does the following:

- Amends laws pertaining to the North Carolina Controlled Substances Act.
- Amends laws pertaining to the North Carolina Controlled Substances Reporting System Act.
- Establishes conditions and requirements for the release of information from the Controlled Substances Reporting System to local law enforcement.
- Revises and establishes penalties for certain violations.
- Expresses the intent to appropriate additional funds in the future for community-based substance use disorder treatment and recovery services, the purchase of overdose medications, Operation Medicine Drop, and a special agent position with the State Bureau of Investigation.
- Amends the statewide Telepsychiatry program that delivers mental health and substance abuse care.

This act has various effective dates. Please see the full summary for more detail.

### **S711 - NC Farm Act of 2018.**

#### **Sec. 14: Provide Uniformity to Assessment of Farm Machinery. (SL 2018-113)**

Sec. 14 of S.L. 2018-113 directs the Department of Revenue to publish a depreciation schedule for farm equipment and make the schedule electronically available on its website. A county appraiser

may use any of the appraisal methods provided in statute and must consider relevant taxpayer information. However, if the county uses a cost approach method to appraise the equipment, the county must appraise the equipment using the depreciation schedule published by the Department of Revenue.

This bill was vetoed by the Governor on June 25, 2018, and that veto was overridden by the General Assembly on June 27, 2018. This section is effective for taxes imposed for taxable years beginning on or after July 1, 2019.

#### **S711 - NC Farm Act of 2018.**

##### **Sec. 15: Clarify Cemetery Property Tax Exemption. (SL 2018-113)**

Under existing law, real property set apart for burial purposes, where the property is not offered for sale or rental or sale of burial rights therein, is not subject to property tax. Sec. 15 of S.L. 2018-113 provides that the owner of the property is not required to apply for the property tax exemption for burial property. A county is prohibited from denying the exemption to a taxpayer who lacks a survey or plat detailing the exempt property.

This bill was vetoed by the Governor on June 25, 2018, and that veto was overridden by the General Assembly on June 27, 2018. This section became effective June 27, 2018.

#### **S750 - Health in Local Confinement/Veterinarians Controlled Substances/Wendell Holmes Murphy Freeway/Tax Due Date. (SL 2018-76)**

S.L. 2018-76 does the following:

- Addresses health issues in local confinement facilities.
- Ensures State prisons are full participants in the NC Health Information Exchange, known as NC HealthConnex.
- Amends the duties of law enforcement officers related to involuntary commitment.
- Amends the North Carolina Controlled Substances Act and the Controlled Substances Reporting System pertaining to the practice of veterinary medicine.
- Requires continuing education for veterinarians on the abuse of controlled substances.
- Includes the North Carolina Veterinary Medical Board on the Prescription Drug Abuse Advisory Committee.
- Amends various budget provisions.

This act has various effective dates. Please see the full summary for more detail.

#### **S758 - Build NC Bond Act of 2018. (SL 2018-16)**

S.L. 2018-16, The Build NC Bond Act of 2018, authorizes the issuance of up to \$3 billion in special indebtedness to create an additional funding source for Build NC Projects, which consists of Division Needs Projects and Regional Impact Projects scheduled in accordance with the Strategic Transportation Investments law in Article 14B of Chapter 136 of the General Statutes.

This act becomes effective January 1, 2019 and expires December 31, 2028.