

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SESSION LAW 2003-416
SENATE BILL 97**

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE
REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 10 of S.L. 2002-87 reads as rewritten:

"**SECTION 10.** Section 9 of this act is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that ~~date~~, except that if the amendments made by Section 9 would create an increase in tax for a decedent dying before August 22, 2002, then the tax may be calculated under the prior law. The remainder of this act is effective when it becomes law. Section 2 of this act applies to credits for buildings ~~that are awarded a federal credit allocation before January 1, 2003, and for which a federal tax credit is first claimed for a taxable year beginning on or after January 1, 2002.~~"

SECTION 2. S.L. 2002-172 is reenacted.

SECTION 3. G.S. 105-129.40 reads as rewritten:

"**§ 105-129.40. (See Editor's note for repeal) Definitions applicable to Article. Scope and definitions.**

(a) Scope. – G.S. 105-129.41 applies to buildings that are awarded a federal credit allocation before January 1, 2003. G.S. 105-129.42 applies to buildings that are awarded a federal credit allocation on or after January 1, 2003.

(b) Definitions. – The definitions in section 42 of the Code and the following definitions apply in this Article:

- (1) Housing Finance Agency. – The North Carolina Housing Finance Agency established in G.S. 122A-4.
- (2) ~~Pass-Through Entity.~~ Pass-through entity. – Defined in G.S. ~~105-129.35.~~ 105-228.90."

SECTION 4.(a) G.S. 105-163.010(7) reads as rewritten:

"(7) ~~Pass-through entity.~~ – Defined in G.S. 105-228.90. ~~An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this Part, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws."~~

SECTION 4.(b) G.S. 105-163.1(9) reads as rewritten:

"(9) ~~Pass-through entity.~~ – Defined in G.S. 105-228.90."

SECTION 4.(c) G.S. 105-129.35(c) reads as rewritten:

"(c) Definitions. – The following definitions apply in this section:

- (1) Certified historic structure. – Defined in section 47 of the Code.
- (2) ~~Pass-through entity.~~ – Defined in G.S. 105-228.90. ~~An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the~~

~~federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.~~

- (3) Qualified rehabilitation expenditures. – Defined in section 47 of the Code."

SECTION 4.(d) G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this Article:

(4d) Pass-through entity. – An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws."

SECTION 5.(a) G.S. 105-130.4(a)(1) reads as rewritten:

"(1) ~~Business—~~'Apportionable income' means all income that is apportionable under the United States Constitution."

SECTION 5.(b) G.S. 105-130.4(a)(5) reads as rewritten:

"(5) ~~Nonbusiness—~~'Nonapportionable income' means all income other than ~~business-apportionable income.~~"

SECTION 5.(c) G.S. 105-130.4(c) reads as rewritten:

"(c) Rents and royalties from real or tangible personal property, gains and losses, interest, dividends less the portion deductible under G.S. 105-130.7, patent and copyright royalties and other kinds of income, to the extent that they constitute ~~nonbusiness-nonapportionable income~~, less related expenses shall be allocated as provided in subsections (d) through (h) of this section."

SECTION 5.(d) G.S. 105-130.4(i) reads as rewritten:

"(i) All ~~business-apportionable income~~ of corporations other than public utilities and excluded corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. Provided, that where the sales factor does not exist, the denominator of the fraction shall be the number of existing factors and where the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction shall be the number of existing factors plus one."

SECTION 5.(e) G.S. 105-130.4(j)(2) reads as rewritten:

"(2) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals except that subrentals shall not be deducted when they constitute ~~business-apportionable income~~. Any property under construction and any property the income from which constitutes ~~nonbusiness-nonapportionable income~~ shall be excluded in the computation of the property factor."

SECTION 5.(f) G.S. 105-130.4(k)(1) reads as rewritten:

"(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the income year by the corporation as compensation, and the denominator of which is the total compensation

paid everywhere during the income year. All compensation paid to general executive officers and all compensation paid in connection with ~~nonbusiness-nonapportionable~~ income shall be excluded in computing the payroll factor. General executive officers shall include the chairman of the board, president, vice-presidents, secretary, treasurer, comptroller, and any other officers serving in similar capacities."

SECTION 5.(g) G.S. 105-130.4(l)(1) reads as rewritten:

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

SECTION 5.(h) G.S. 105-130.4(m) through (s) read as rewritten:

"(m) All ~~business-apportionable~~ income of a railroad company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the "railway operating revenue" from business done within this State and the denominator of which is the "total railway operating revenue" from all business done by the company as shown by its records kept in accordance with the standard classification of accounts prescribed by the Interstate Commerce Commission.

"Railway operating revenue" from business done within this State shall mean "railway operating revenue" from business wholly within this State, plus the equal mileage proportion within this State of each item of "railway operating revenue" received from the interstate business of the company. "Equal mileage proportion" shall mean the proportion which the distance of movement of property and passengers over lines in this State bears to the total distance of movement of property and passengers over lines of the company receiving such revenue. "Interstate business" shall mean "railway operating revenue" from the interstate transportation of persons or property into, out of, or through this State. If the Secretary of Revenue ~~shall find,~~ finds, with respect to any particular company, that its accounting records are not kept so as to reflect with exact accuracy such division of revenue by State lines as to each transaction involving interstate revenue, the Secretary of Revenue may adopt such regulations, based upon averages, as will approximate with reasonable accuracy the proportion of interstate revenue actually earned upon lines in this State. Provided, that where a railroad is being operated by a partnership which is treated as a corporation for income tax purposes and pays a net income tax to this State, or if located in another state would be so treated and so pay as if located in this State, each partner's share of the net profits shall be considered as dividends paid by a corporation for purposes of this Part and shall be so treated for inclusion in gross income, deductibility, and separate allocation of dividend income.

(n) All ~~business-apportionable~~ income of a telephone company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is gross operating revenue from local service in this State plus gross operating revenue from toll services performed wholly within this State plus the proportion of revenue from interstate toll services attributable to this State as shown by the records of the company plus the gross operating revenue in North Carolina from other service less the uncollectible revenue in this State, and the denominator of which is the total gross operating revenue from all business done by the company everywhere less total uncollectible revenue. Provided, that where a telephone company is required to keep its records in accordance with the standard classification of accounts prescribed by the

Federal Communications Commission the amounts in such accounts shall be used in computing the apportionment fraction as provided in this subsection.

(o) All ~~business-apportionable~~ income of a motor carrier of property shall be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in this State and the denominator of which is the total number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or operated by the company hauling property for a charge or traveling on a scheduled route.

(p) All ~~business-apportionable~~ income of a motor carrier of passengers shall be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in this State and the denominator of which is the total number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or operated by the company carrying passengers for a fare or traveling on a scheduled route.

(q) All ~~business-apportionable~~ income of a telegraph company shall be apportioned by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

The property factor shall be as defined in subsection (j) of this section, the payroll factor shall be as defined in subsection (k) of this section, and the sales factor shall be as defined in subsection (l) of this section.

(r) All ~~business-apportionable~~ income of an excluded corporation and of all other public utilities shall be apportioned by multiplying the income by the sales factor as determined under subsection (l) of this section.

(s) All ~~business-apportionable~~ income of an air or water transportation corporation shall be apportioned by a fraction, the numerator of which is the corporation's revenue ton miles in this State and the denominator of which is the corporation's revenue ton miles everywhere. The term "revenue ton mile" means one ton of passengers, freight, mail, or other cargo carried one mile. In making this computation, a passenger is considered to weigh two hundred pounds."

SECTION 5.(i) G.S. 105-130.8(a)(5) reads as rewritten:

"(5) For purposes of this section, any income item deductible in determining State net income under the provisions of G.S. 105-130.5 and any ~~nonbusiness-nonapportionable~~ income not allocable to this State under the provisions of G.S. 105-130.4 shall be considered as income not taxable under this Part. The amount of the income item considered income not taxable under this Part is determined after subtracting related expenses for which a deduction was allowed under this Part."

SECTION 5.(j) G.S. 105-122(c)(1) reads as rewritten:

"(1) After ascertaining and determining the amount of its capital stock, surplus and undivided profits, as provided herein, every corporation permitted to allocate and apportion its net income for income tax purposes under the provisions of Article 4 of this Chapter shall apportion ~~said-its~~ capital stock, surplus and undivided profits to this State through use of the fraction computed for apportionment of its ~~business-apportionable~~ income under ~~said-that~~ Article. A corporation that is subject to franchise tax under this Article but is not subject to income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits to this State by using the apportionment formula that would apply to the corporation if it were subject to Article 4.

Provided, that although Notwithstanding the foregoing, if a corporation is authorized by the Tax Review Board to apportion its ~~business-apportionable~~ income by use of an alternative formula or

method, the corporation may not use ~~such this~~ alternative formula or method for apportioning its capital stock, surplus and undivided profits unless specifically authorized to do so by order of the Tax Review Board.

~~Provided, further, that a~~ A corporation ~~which that~~ is required to pay an income tax to this State on its entire net income shall apportion its entire capital stock, surplus and undivided profits to this State."

SECTION 6. G.S. 105-129.42(a)(3) reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

...
(3) Qualified residential unit. ~~Residential Unit~~. – A housing unit that meets the requirements of section 42 of the Code."

SECTION 7. G.S. 105-129.42(g) reads as rewritten:

"(g) Return and Payment. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the taxpayer receives a carryover allocation of a federal low-income housing credit. The return must state the name and location of the qualified low-income housing development for which the credit is claimed.

If a taxpayer chooses the loan method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the amount of credit allowed the taxpayer. The Agency must loan the taxpayer the amount of the credit on terms consistent with the Qualified Allocation Plan. The Housing Finance Agency is not required to make a loan to a qualified North Carolina low-income housing development until the Secretary transfers the credit amount to the Agency.

If the taxpayer chooses the direct tax refund method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the refundable excess of the credit allowed the taxpayer. The Agency holds the refund due the taxpayer in escrow, with no interest accruing to the taxpayer during the escrow period. The Agency must release the refund to the taxpayer upon the occurrence of the earlier of the following:

- (1) The Agency determines that the taxpayer has complied with the Qualified Allocation Plan and has completed at least fifty percent (50%) of the activities included in the development's eligible basis.
- (2) Within 30 days after the date the development is placed in ~~service~~ date-service."

SECTION 8. G.S. 105-129.42(i) reads as rewritten:

"(i) Liability From Forfeiture. – A taxpayer that forfeits all or part of the credit allowed under this section is liable for all past taxes avoided and any refund claimed as a result of the credit plus interest at the rate established under G.S. 105-241.1(i). The interest ~~rate~~ is computed from the date the Secretary transferred the credit amount to the Housing Finance Agency. The past taxes, refund, and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the taxes, refund, and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 9. G.S. 105-299 reads as rewritten:

"§ 105-299. (Effective for taxes imposed for taxable years beginning on or after July 1, 2003) Employment of experts.

The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the assessor to assist the assessor in the performance of these duties. The county may also assign to county agencies, or contract with State or federal ~~agencies, for~~ agencies for, any duties involved with the approval or auditing of use-value accounts. The county may make available to these persons any information it has that will facilitate the performance of a contract entered into pursuant to this section. Persons receiving this information are subject to the provisions of G.S. 105-289(e) and G.S. 105-259 regarding the use and disclosure of information provided to them by the county. Any person employed by an

appraisal firm whose duties include the appraisal of property for the county must be required to demonstrate that he or she is qualified to carry out these duties by achieving a passing grade on a comprehensive examination in the appraisal of property administered by the Department of Revenue. In the employment of these firms, primary consideration must be given to the firms registered with the Department of Revenue pursuant to G.S. 105-289(i). A copy of the specifications to be submitted to potential bidders and a copy of the proposed contract may be sent by the board to the Department of Revenue for review before the invitation or acceptance of any bids. Contracts for the employment of these firms or persons are contracts for personal services and are not subject to the provisions of Article 8, Chapter 143, of the General Statutes."

SECTION 10. G.S. 105-358(a) reads as rewritten:

"(a) Waiver. – A tax collector may, upon making a record of the reasons therefor, reduce or waive the ~~ten percent (10%)~~ penalty imposed on giving a worthless check under G.S. 105-357(b)(2)."

SECTION 11. G.S. 20-305.2(a)(7) reads as rewritten:

"§ 20-305.2. Unfair methods of competition.

(a) It is unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, to directly or indirectly through any subsidiary or affiliated entity, own any ownership interest in, operate, or control any motor vehicle dealership in this State, provided that this section shall not be construed to prohibit:

...
(7) The ownership, operation, or control of a dealership that sells primarily recreational vehicles as defined in ~~[G.S.]~~ G.S. 20-4.01 by a manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, if the manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, owned, operated, or controlled the dealership as of October 1, 2001.

(b) This section does not apply to manufacturers or distributors of trailers or semitrailers that are not recreational vehicles as defined in G.S. 20-4.01."

SECTION 12. Subchapter I of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-1.1. Supremacy of State Constitution.

The State's power of taxation is vested in the General Assembly. Under Article V, Section 2(1), of the North Carolina Constitution, this power cannot be surrendered, suspended, or contracted away. In the exercise of this power, the General Assembly may amend or repeal any provision of this Subchapter in its discretion. No provision of this Subchapter constitutes a contract that the provision will remain in effect in future years, and any representation made to the contrary is of no effect."

SECTION 13. Section 3.1 of S.L. 2001-347 reads as rewritten:

"SECTION 3.1. Part 1 of this act is effective when it becomes law and expires January 1, 2006, unless one of the following occurs: (i) 15 states have ~~signed-adopted~~ the Streamlined Sales and Use Tax Agreement, or (ii) states representing a combined resident population equal to at least ten percent (10%) of the national resident population, as determined by the 2000 federal decennial census, have ~~signed-adopted~~ the Agreement."

SECTION 14.(a) Section 1 of S.L. 1993-577 reads as rewritten:

"Section 1. This section applies only if Pender County has provided under G.S. 105-472 that revenues are to be distributed under subdivision (1) of that section. Revenues collected under ~~Articles 39, 40, and 42~~ Subchapter VIII of Chapter 105 of the General Statutes which are received by Pender County and the municipalities within that county under G.S. 105-472, which were initially allocated to Pender County under ~~those Articles,~~ that Subchapter other than revenues which are required by law to be used for certain purposes, may be redistributed among Pender County and those municipalities by agreement adopted under Article 20 of Chapter 160A of the General Statutes. The agreement is effective only if approved by Pender County and all the

municipalities in that county entitled to a distribution of those funds for which Pender County determined the allocation method. An election to enter an agreement shall be made annually at the time the county makes its determination to the Department of Revenue for the method of local sales tax distribution under G.S. 105-472."

SECTION 14.(b) This section is effective on and after December 1, 2002.

SECTION 15. G.S. 105-130.7A(b)(4)b. reads as rewritten:

"(b) Definitions. – The following definitions apply in this section:

 (4) Related entity. – Any of the following:

 b. A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own in the aggregate at least fifty percent (50%) of the value of the taxpayer's outstanding stock. ~~are component members with respect to the taxpayer."~~

SECTION 16.(a) G.S. 105-164.4C(f) reads as rewritten:

"(f) Call Center Cap. – The gross receipts tax on ~~interstate~~ telecommunications service that originates outside this State, terminates in this State, and is provided to a call center that has a direct pay permit issued by the Department under G.S. 105-164.27A may not exceed fifty thousand dollars (\$50,000) a calendar year. This cap applies separately to each legal entity."

SECTION 16.(b) G.S. 105-164.27A(b) reads as rewritten:

"(b) Telecommunications Service. – A direct pay permit for telecommunications service authorizes its holder to purchase telecommunications service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases telecommunications service under a direct pay permit must file a return and pay the tax due monthly to the Secretary. A direct pay permit issued under this subsection does not apply to any tax other than the tax on telecommunications service.

A call center that purchases ~~interstate~~ telecommunications service that originates outside this State and terminates in this State may apply to the Secretary for a direct pay permit for telecommunications service. A call center is a business that is primarily engaged in providing support services to customers by telephone to support products or services of the business. A business is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming."

SECTION 17. G.S. 105-164.6(f) reads as rewritten:

"(f) Before a person may engage in business in this State selling or delivering tangible personal property for storage, use, or consumption in this State, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the Department.

The holder of the certificate of registration must pay the tax levied under this Article. A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

SECTION 18.(a) The lead-in language of G.S. 105-164.13 reads as rewritten:

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

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

SECTION 18.(b) The lead-in language of G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the following list is allowed a semiannual refund of sales and use taxes paid by it under this Article, ~~except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c),~~ Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service, for use in carrying on the work of the nonprofit entity:

...
SECTION 18.(c) The lead-in language of G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article, ~~except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c),~~ Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service. ~~property.~~ Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...
SECTION 18.(d) G.S. 105-164.14(c)(20) reads as rewritten:

"(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property or services that are eligible for refund under this subsection acquired by it through the expenditure of contract and grant funds."

SECTION 18.(e) G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes paid by a State agency on direct purchases of tangible personal property and services and of local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. This subsection does not apply to purchases for which a State agency is allowed a refund under subsection (c) of this section.

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

- (1) The date the property was purchased.
- (2) The type of property purchased.
- (3) The project for which the property was used.
- (4) If the property was purchased in this State, the county in which it was purchased.
- (5) If the property was not purchased in this State, the county in which the property was used.
- (6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all

information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

SECTION 19.(a) G.S. 105-187.18 reads as rewritten:

"§ 105-187.18. Exemptions.

(a) The taxes imposed by this Article do not apply to:

- (1) Bicycle tires and other tires for vehicles propelled by human power.
- (2) Recapped tires.
- (3) Tires sold for placement on newly manufactured vehicles.

(b) ~~The Except for the exemption for sales a state cannot constitutionally tax, the~~ exemptions in G.S. 105-164.13 and the refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article."

SECTION 19.(b) G.S. 105-187.23 reads as rewritten:

"§ 105-187.23. Exemptions and refunds.

(a) Exemptions. – ~~Except for the exemption provided in G.S. 105-164.13(17), for sales a state cannot constitutionally tax,~~ the exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article.

(b) Refunds. – The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article. A person who buys at least 50 new white goods of any kind in the same sale or purchase may obtain a refund equal to sixty percent (60%) of the amount of tax imposed by this Article on the white goods when all of the white goods purchased are to be placed in new or remodeled dwelling units that are located in this State and do not contain the kind of white goods purchased. To obtain a refund, a person must file an application for a refund with the Secretary. The application must contain the information required by the Secretary, be signed by the purchaser of the white goods, and be submitted by the date set by the Secretary."

SECTION 19.(c) G.S. 105-187.33 reads as rewritten:

"§ 105-187.33. (Repealed effective January 1, 2010.) Exemptions and refunds.

~~Except for the exemption for sales a state cannot constitutionally tax, the~~ exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article. The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article."

SECTION 20. G.S. 105-277(d) reads as rewritten:

"(d) All bona fide indebtedness incurred in the purchase of fertilizer and fertilizer materials owing by a taxpayer as principal debtor may be deducted from the total value of all fertilizer and fertilizer materials as are held by such taxpayer for his own use in agriculture during the current year. ~~Provided, further, that from the total value of cotton stored in this State there may be deducted by the owner thereof all bona fide indebtedness incurred directly for the purchase of said cotton and for the payment of which the cotton so purchased is pledged as collateral.~~"

SECTION 21. G.S. 105-164.13(5) reads as rewritten:

"(5) Manufactured products produced and sold by manufacturers or producers to other manufacturers, producers, or registered retailers or wholesale merchants, for the purpose of resale except as modified by G.S. ~~105-164.3(23).~~ 105-164.3(51). This exemption does not extend to or include retail sales to users or consumers not for resale."

SECTION 22. G.S. 105-164.13B(1) reads as rewritten:

"(1) The following items are subject to tax:
a. Alcoholic beverages, as defined in G.S. 105-113.68.
b. Dietary supplements.
c. Food sold through a vending machine."

SECTION 23. G.S. 105-164.14(c)(21) reads as rewritten:

"(21) The University of North Carolina ~~Hospitals at Chapel Hill.~~ Health Care System."

SECTION 24.(a) The caption of G.S. 105-164.6 reads as rewritten:

"§ 105-164.6. Imposition of use tax."

SECTION 24.(b) The caption of G.S. 105-164.8(a) reads as rewritten:

~~"Sales Tax Obligation."~~

SECTION 24.(c) The caption of G.S. 105-164.8(c) reads as rewritten:

~~"Use Tax Local Tax."~~

SECTION 25. G.S. 143B-437.54(c) reads as rewritten:

"(c) Conflict of Interest. – It is unlawful for a current or former member of the Committee to, while serving on the Committee or within two years after the end of service on the Committee, provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that ~~was~~is awarded a grant under this Part while the ~~former member was~~is serving on the Committee. Violation of this subsection is a Class 1 misdemeanor. In addition to the penalties imposed under G.S. 15A-1340.23, the court shall also make a finding as to what compensation was received by the defendant for services in violation of this section and shall order the defendant to forfeit that compensation.

If a person is convicted under this section, the person shall not provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that was awarded a grant under this Part while the ~~former~~ member was serving on the Committee until two years after the person's conviction under this section."

SECTION 26. Section 45.12 of S.L. 2003-284 reads as rewritten:

"SECTION 45.12. Sections 45.2 through 45.5, Section 45.6, and Sections ~~45.8~~45.9 through 45.10 of this act become effective July 15, 2003. Sections 45.6A, 45.7, 45.8, and 45.11 become effective October 1, 2003. Section 45.5A and Section 45.6B become effective January 1, 2004. The remainder of this part is effective when it becomes law."

SECTION 27.(a) G.S. 105-469, as amended by S.L. 2003-284, reads as rewritten:

"§ 105-469. Secretary to collect and administer local sales and use tax.

(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary ~~must~~must, ~~on a monthly basis~~, distribute local taxes levied on food to the taxing counties ~~in accordance with G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county as follows:~~

- (1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b).
- (2) The Secretary must allocate the remaining net proceeds proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this Chapter.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."

SECTION 27.(b) Section 45.11(c) of S.L. 2003-284 reads as rewritten:

"SECTION 45.11.(c) The first paragraph of Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding the following sentence immediately after the first sentence in that paragraph:

"The Secretary of Revenue shall distribute the taxes levied by Mecklenburg County on food to Mecklenburg County and municipalities within Mecklenburg County in accordance with ~~G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county.~~G.S. 105-469(a)."

SECTION 28. The Department of Revenue may draw up to twenty-five thousand dollars (\$25,000) for the 2003-2004 fiscal year from the local taxes collected on food to pay for the programming costs associated with the distribution of the local taxes collected on food.

SECTION 29.(a) Section 2.2(h) of S.L. 2003-284 reads as rewritten:

"SECTION 2.2.(h) Notwithstanding the provisions of G.S. 62A-22(c), 62A-24(d), ~~62A-25, and 62A-26, and 62A-25,~~ the following shall be transferred from Wireless Fund created in G.S. 62A-22(c) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2005 fiscal biennium: (i) sums equal to the lesser of thirty-three million dollars (\$33,000,000) or the aggregated all-service charges remitted to the Wireless Fund during the 2003-2004 fiscal year, year less the administrative fee allowed under G.S. 62A-26; and (ii) the sum of twenty-five million dollars (\$25,000,000) from ~~the services charges remitted to the Wireless Fund during the 2004-2005 fiscal year.~~"

SECTION 29.(b) G.S. 62A-23(b) reads as rewritten:

"(b) The service charge may be adjusted by the Board beginning July 1, 2000 and every two years thereafter. The Board is to set the service charge at such a rate as to ensure full recovery for CMRS providers and for PSAPs, over a reasonable period of time, of the costs associated with developing and maintaining a wireless Enhanced 911 system. If necessary to ensure full recovery of costs for both CMRS providers and PSAPs over a reasonable period of time, the Board ~~may, at the time it adjusts the service charge, also may~~ adjust the allocation percentages set forth in G.S. 62A-25(a) and G.S. ~~62A-25(b).62A-25(b),~~ or reallocate funds comprising the Wireless Fund, provided, however, that any adjustment or reallocation shall be consistent with the requirements of the FCC Order."

SECTION 30. Section 27 of this act becomes effective October 1, 2003. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:06 p.m. this 14th day of August, 2003