

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SENATE BILL 1215
RATIFIED BILL**

AN ACT TO INCREASE UNIFORMITY IN SUNSET AND REPORTING REQUIREMENTS OF ECONOMIC INCENTIVES TOOLS AND TO ELIMINATE NONUTILIZED ECONOMIC INCENTIVES.

The General Assembly of North Carolina enacts:

PART I: ECONOMIC INCENTIVES REPORTING AND SUNSETS

SECTION 1.1. G.S. 105-129.6(b) reads as rewritten:

"(b) ~~Reports.—Report.~~ — ~~The Department of Revenue shall publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31: taxpayer:

- (1) The number of credits taken for each credit allowed in this Article.
- (2) The number and enterprise tier area of new jobs with respect to which credits were generated and to which credits were taken.
- (3) The cost and enterprise tier area of machinery and equipment with respect to which credits were generated and to which credits were taken.
- (4) The number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.
- (5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were taken.
- (6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were taken.
- (7) The cost and enterprise tier area of real property investment with respect to which credits were generated and to which credits were taken."

SECTION 1.2. G.S. 105-129.19 reads as rewritten:

"§ 105-129.19. Reports—Report.

~~The Department of Revenue must publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information for the 12-month period ending the preceding December 31: itemized by credit and by taxpayer:

- (1) The number of taxpayers that took the credits allowed in this Article.
- (2) The cost of ~~business property and~~ renewable energy property with respect to which credits were taken.
- (2a) Repealed by Session Laws 2002-87, s. 6, effective August 22, 2002.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.3. G.S. 105-129.26(e) reads as rewritten:

"(e) ~~Reports.—Report.~~ — ~~The Department of Commerce and the Department of Revenue shall jointly publish by May 1 of each year~~ must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31: taxpayer:

- (1) The number and location of large and major recycling facilities qualified under this Article.
- (2) The number of new jobs created by each recycling facility.
- (3) The amount of investment in each recycling facility.
- (4) The amount of credits taken under this Article."

SECTION 1.4. G.S. 105-129.38 reads as rewritten:

"§ 105-129.38. Reports—Report.



~~The Department of Revenue must publish by May 1 of each year must include in the economic incentives report required by G.S. 105-256 the following information for the 12-month period ending the preceding December 31: itemized by taxpayer:~~

- (1) The number of taxpayers that took the credits allowed in this Article.
- (2) The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.5. Article 3D of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.39. Sunset.

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2014."

SECTION 1.6. G.S. 105-129.44 reads as rewritten:

"§ 105-129.44. Report.

~~The Department of Revenue must publish by May 1 of each year must include in the economic incentives report required by G.S. 105-256 the following information for the 12-month period ending the preceding December 31: itemized by taxpayer:~~

- (1) The number of taxpayers that took the credit allowed in this Article.
- (2) The location of each qualified North Carolina low-income building or housing development for which a credit was taken.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.7. G.S. 105-129.54 reads as rewritten:

"§ 105-129.54. Reports-Report.

~~The Department of Revenue must publish by May 1 of each year must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31: taxpayer:~~

- (1) The number of taxpayers that took a credit allowed in this Article, itemized by the categories of small business, low-tier, other, and university research.
- (2) The amount of each credit taken in each category.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.8. Article 3H of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.75A. Report.

The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

- (1) The number of taxpayers that took the credits allowed in this Article.
- (2) The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken.
- (3) The total cost to the General Fund of the credits taken."

SECTION 1.9. G.S. 105-129.85(b) reads as rewritten:

~~"(b) Reports.—Report. – The Department of Revenue shall publish by May 1 of each year must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31: taxpayer:~~

- (1) The number and amount of credits generated and taken for each credit allowed in this Article.
- (2) The number and development tier area of new jobs with respect to which credits were generated and to which credits were taken.
- (3) The cost and development tier area of business property with respect to which credits were generated and to which credits were taken.
- (4) The cost and development tier area of real property investment with respect to which credits were generated and to which credits were taken."

SECTION 1.10. G.S. 105-129.98 reads as rewritten:

"§ 105-129.98. Reports-Report.

~~The Department of Revenue must publish by May 1 of each year must include in the economic incentives report required by G.S. 105-256 the following information, information itemized by taxpayer, for the 12-month period ending the preceding December 31: taxpayer:~~

- (1) The number of taxpayers that claimed a credit allowed in this Article.

(2) The amount of each credit claimed and the taxes against which it was applied.

(3) The total cost to the General Fund of the credits claimed."

SECTION 1.11. G.S. 105-130.41(c1) reads as rewritten:

"(c1) Report. – ~~The Department of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:~~

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges assessed for the taxable year.

(2a) The amount of the charges attributable to imports.

(2b) The amount of the charges attributable to exports.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.12. G.S. 105-130.45(f) reads as rewritten:

"(f) Report. – ~~The Department of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:~~

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of exports with respect to which credits were taken.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.13. G.S. 105-130.46(k) reads as rewritten:

"(k) Reports. – ~~Any corporation that takes a credit under this section must submit an annual report by May 1 of each year to the Senate Finance Committee, the House of Representatives Finance Committee, the Senate Appropriations Committee, the House of Representatives Appropriations Committee, and the Fiscal Research Division of the General Assembly. The report must state the amount of credit earned by the corporation during the previous year, the amount of credit including carryforwards claimed by the corporation during the previous year, and the percentage of domestic leaf content in cigarettes produced by the corporation during the previous year. The first reports required under this section are due by May 1, 2006.~~Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

(1) The number of taxpayers that took the credit allowed in this section.

(2) The amount of cigarettes and other tobacco products exported through the North Carolina State Ports with respect to which credits were taken.

(3) The percentage of domestic leaf content in cigarettes produced during the previous year, as reported by the taxpayer.

(4) The total cost to the General Fund of the credits taken."

SECTION 1.14. G.S. 105-130.47(h) reads as rewritten:

"(h) Report. – ~~The Department of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information, itemized by taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:~~

(1) The location of sites used in a production for which a credit was taken.

(2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.

(3) The number of people employed in the State with respect to credits taken.

(4) The total cost to the General Fund of the credits taken."

SECTION 1.15. G.S. 105-151.22(c1) reads as rewritten:

"(c1) Report. – ~~The Department of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer for the 12-month period ending the preceding December 31:~~taxpayer:~~

(1) The number of taxpayers taking a credit allowed in this section.

(2) The total amount of charges assessed for the taxable year.

(2a) The amount of the charges attributable to imports.

(2b) The amount of the charges attributable to exports.

(3) The total cost to the General Fund of the credits taken."

SECTION 1.16. G.S. 105-151.29(h) reads as rewritten:

"(h) Report. – ~~The Department of Revenue must publish by May 1 of each year~~must include in the economic incentives report required by G.S. 105-256 the following

~~information, information itemized by taxpayer for the 12-month period ending the preceding December 31; taxpayer:~~

- (1) The location of sites used in a production for which a credit was taken.
- (2) The qualifying expenses for which a credit was taken, classified by whether the expenses were for goods, services, or compensation paid by the production company.
- (3) The number of people employed in the State with respect to credits taken.
- (4) The total cost to the General Fund of the credits taken."

SECTION 1.17. G.S. 105-164.14(a1), (f), (g), (h), (j), (k), (l), (m), (n), and (o) are repealed.

SECTION 1.18. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.14A. Economic incentive refunds.

(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

- (1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars (\$2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). This subdivision is repealed for purchases made on or after January 1, 2011.
- (2) Major recycling facility. – An owner of a major recycling facility is allowed a refund of the sales and use tax paid by it on building materials, building supplies, fixtures, and equipment that become a part of the real property of the recycling facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner.
- (3) Business in low-tier area. – A taxpayer that is engaged primarily in one of the businesses listed in G.S. 105-129.83(a) in a development tier one area and that places machinery and equipment in service in that area is allowed a refund of the sales and use tax paid by it on the machinery and equipment. For purposes of this subdivision, "machinery and equipment" includes engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.83, capitalized for tax purposes under the Code, and not leased to another party. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. The sunset for Article 3J of Chapter 105 of the General Statutes for development tier one areas applies to this subdivision.
- (4) Motorsports team or sanctioning body. – A professional motorsports racing team or a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after January 1, 2011.
- (5) Professional motorsports team. – A professional motorsports racing team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motorsports vehicle. For purposes of this subdivision, "motorsports accessories" includes instrumentation, telemetry, consumables, and paint. This subdivision is repealed for purchases made on or after January 1, 2014.
- (6) Analytical services business. – A taxpayer engaged in analytical services in this State is allowed a refund of sales and use tax paid by it. This subdivision is repealed for purchases made on or after January 1, 2013. The amount of the refund is the greater of the following:

- a. Fifty percent (50%) of the eligible amount of sales and use tax paid by it on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use tax paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year.
- b. Fifty percent (50%) of the amount of sales and use tax paid by it in the fiscal year on medical reagents.
- (7) Railroad intermodal facility. – The owner or lessee of an eligible railroad intermodal facility is allowed a refund of sales and use tax paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the facility. Liability incurred indirectly by the owner or lessee of the facility for sales and use taxes on these items is considered tax paid by the owner or lessee. This subdivision is repealed for purchases made on or after January 1, 2038.
- (b) Administration. – 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 State's fiscal year. Refunds applied for after the due date are barred.
- (c) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by refund and by taxpayer:
 - (1) The number of taxpayers claiming a refund allowed in this section.
 - (2) The total amount of purchases with respect to which refunds were claimed.
 - (3) The total cost to the General Fund of the refunds claimed."

SECTION 1.19. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.14B. Certain industrial facilities refunds.

- (a) Definitions. – The following definitions apply in this section:
 - (1) Air courier services. – The furnishing of air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.
 - (2) Aircraft manufacturing. – The manufacturing or assembling of complete aircraft or of aircraft engines, blisks, fuselage sections, flight decks, flight deck systems or components, wings, fuselage fairings, fins, moving leading and trailing wing edges, wing boxes, nose sections, tailplanes, passenger doors, nacelles, thrust reversers, landing gear, braking systems, or any combination of these.
 - (3) Bioprocessing. – Biomanufacturing or processing that includes the culture of cells to make commercial products, the purification of biomolecules from cells, or the use of these molecules in manufacturing.
 - (4) Reserved.
 - (5) Reserved.
 - (6) Facility. – A single building or structure or a group of buildings or structures that are located on a single parcel of land or on contiguous parcels of land under common ownership and any other related real property contained on the parcel or parcels.
 - (7) Financial services, securities operations, and related systems development. – One or both of the following functions:
 - a. Performing analysis, operations, trading, or sales functions for investment banking, securities dealing and brokering, securities trading and underwriting, investment portfolio or mutual fund management, retirement services, or employee benefit administration.
 - b. Developing information technology systems and applications, managing and enhancing operating applications and databases, or providing, operating, and maintaining telecommunications networks and distributed and mainframe computing resources for investment banking, securities dealing and brokering, securities trading and

underwriting, investment portfolio or mutual fund management, retirement services, or employee benefit administration.

(8) Reserved.

(9) Reserved.

(10) Reserved.

(11) Motor vehicle manufacturing. – Any of the following:

a. Manufacturing complete automobiles and light-duty motor vehicles.

b. Manufacturing heavy-duty truck chassis and assembling complete heavy-duty trucks, buses, heavy-duty motor homes, and other special purpose heavy-duty motor vehicles for highway use.

c. Manufacturing complete military armored vehicles, nonarmored military universal carriers, combat tanks, and specialized components for combat tanks.

(12) Reserved.

(13) Reserved.

(14) Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines. – Any of the following:

a. Manufacturing biological and medicinal products. For purposes of this sub-subdivision, a biological product is a preparation that is synthesized from living organisms or their products and used medically as a diagnostic, preventive, or therapeutic agent. For the purpose of this sub-subdivision, bacteria, viruses, and their parts are considered living organisms.

b. Processing botanical drugs and herbs by grading, grinding, and milling.

c. Isolating active medicinal principals from botanical drugs and herbs.

d. Manufacturing pharmaceutical products intended for internal and external consumption in forms such as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions.

(15) Reserved.

(16) Reserved.

(17) Related entity. – An entity for which the taxpayer possesses directly or indirectly at least eighty percent (80%) of the control and value.

(18) Semiconductor manufacturing. – The development and production of semiconductor material, devices, or components.

(19) Solar electricity generating materials manufacturing. – The development and production of one or more of the following:

a. Photovoltaic materials or modules used in producing electricity.

b. Polymers or polymer films primarily intended for incorporation into photovoltaic materials or modules used in producing electricity.

(20) Strategic partner. – A business that is engaged in activities at the facility that directly contribute to the manufacture and distribution of computers and computer peripherals and with whom the taxpayer has contracted to provide those activities at the facility in direct support of its manufacturing and distribution activities.

(b) Refund. – An owner of an industrial facility that meets the business, minimum investment, and industry-specific requirements of this section is allowed an annual refund of sales and use tax paid by it under this Article on building materials, building supplies, fixtures, and equipment that are installed in the construction of the facility and that become a part of the real property of the facility. Liability incurred indirectly by the owner for sales and use taxes on those items is considered tax paid by the owner. The requirements are:

(1) Business requirement. – The facility is primarily engaged in one or more of the following:

a. Air courier services.

b. Aircraft manufacturing.

c. Bioprocessing.

d. Financial services, securities operations, and related systems development.

e. Motor vehicle manufacturing.

- f. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines.
 - g. Semiconductor manufacturing.
 - h. Solar electricity generating materials manufacturing.
- (2) Minimum investment requirement. – The Secretary of Commerce has certified that the owner of the facility will invest at least the required amount of private funds to construct the facility in this State. For the purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in a development tier one area, the required amount is fifty million dollars (\$50,000,000). For all other facilities, the required amount is one hundred million dollars (\$100,000,000). In the case of a computer manufacturing facility, the owner may invest these funds either directly or indirectly through a related entity or strategic partner.
- (3) Industry-specific requirements:
- a. If the facility is primarily engaged in financial services, securities operations, and related systems development, it satisfies all of the following conditions:
 - 1. It is owned and operated by the business for which the services are provided or by a related entity of that business as defined in G.S. 105-130.7A.
 - 2. No part of it is leased to a third-party tenant that is not a related entity of the business.
 - b. If the facility is primarily engaged in solar electricity generating materials manufacturing, the business satisfies a wage standard at the facility. The wage standard is equal to one hundred five percent (105%) of the lesser of the average weekly wage for all insured private employers in the State and the average weekly wage for all insured private employers in the county. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to the amount required by this sub-subdivision. In making the wage calculation, the business must include any jobs that were filled for at least 1,600 hours during the calendar year.
- (c) Forfeiture. – If the owner of an eligible facility does not make the required minimum investment within five years after the first refund under this section with respect to the facility, the facility loses its eligibility and the owner forfeits all refunds already received under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the amount of all past taxes refunded under this section, plus interest at the rate established in G.S. 105-241.21, computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236.
- (d) Administration. – 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 State's fiscal year. Refunds applied for after the due date are barred.
- (e) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by refund and taxpayer:
- (1) The number of taxpayers claiming a refund allowed in this section.
 - (2) The total amount of purchases with respect to which refunds were claimed.
 - (3) The location of facilities with respect to which refunds were claimed.
 - (4) The total cost to the General Fund of the refunds claimed.
- (f) Sunset. – This section is repealed for sales made on or after January 1, 2013."

SECTION 1.20. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.29B. Information to counties and cities.

The Secretary must give information on refunds of tax made under this Article to a designated county or city official within 30 days after the official makes a written request to the Secretary for the information. For a request made by a county official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one

thousand dollars (\$1,000) of tax paid to the county. For a request made by a city official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one thousand dollars (\$1,000) of tax paid to all the counties in which the city is located. The list must include the name and address of each of these claimants and the amount of the refund received from each county covered by the request.

A claimant that has received a refund under this Article of tax paid to a county must give information on the refund to a designated official of the county or a city located in the county. The claimant must give the information to the county or city official within 30 days after the official makes a written request to the claimant for the information. For a request by a county or city official, the claimant must give the official a copy of the request for the refund and any supporting documentation requested by the official to verify the request. If a claimant determines that a refund it has received under this Article is incorrect, the claimant must file an amended request for a refund.

For purposes of this section, a designated county official is the chair of the board of county commissioners or a county official designated in a resolution adopted by the Board, and a designated city official is the mayor of the city or a city official designated in a resolution adopted by the city's governing board. Information given to a county or city official under this section is not a public record and may not be disclosed except as provided in G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 1.21. G.S. 105-256(a) is amended by inserting a new subdivision between subdivisions (2) and (3) to read:

"(a) Publications. – The Secretary shall prepare and publish the following:

...
(2a) By May 1 of each year, an economic incentives report that contains information on tax credits and tax refunds, itemized by credit or refund and by taxpayer, for the previous calendar year.

...."
PART II: OBSOLETE ECONOMIC INCENTIVES

SECTION 2.1. Article 3C of Chapter 105 of the General Statutes reads as rewritten:

"Article 3C.

"Tax Incentives For Recycling Facilities.

"§ 105-129.25. Definitions.

The following definitions apply in this Article:

...
~~(3) Large recycling facility. — A recycling facility that qualifies under G.S. 105-129.26(b).~~

...
"§ 105-129.26. Qualification; forfeiture.

(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits provided in this Article and in Article 5 of this Chapter for major recycling facilities if it meets all of the following conditions:

- (1) The facility is located in an area that, at the time the owner began construction of the facility, was an enterprise tier one area pursuant to G.S. 105-129.3.
- (2) The Secretary of Commerce has certified that the owner will, by the end of the fourth year after the year the owner begins construction of the recycling facility, invest at least three hundred million dollars (\$300,000,000) in the facility and create at least 250 new, full-time jobs at the facility.
- (3) The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.

~~(b) Large Recycling Facility. — A recycling facility qualifies for the tax credit provided in G.S. 105-129.27 for large recycling facilities if it meets all of the following conditions:~~

- ~~(1) The facility is located in an area that, at the time the owner began construction of the facility, was an enterprise tier one area pursuant to G.S. 105-129.3.~~
- ~~(2) The Secretary of Commerce has certified that the owner will, by the end of the second year after the year the owner begins construction of the recycling~~

facility, invest at least one hundred fifty million dollars (\$150,000,000) in the facility and create at least 155 new, full-time jobs at the facility.

- (3) ~~The jobs at the recycling facility meet the wage standard in effect pursuant to G.S. 105-129.4(b) as of the date the owner begins construction of the facility.~~

...
(e) Reports. – The Department of Commerce and the Department of Revenue shall jointly publish by May 1 of each year the following information itemized by taxpayer for the 12-month period ending the preceding December 31:

- (1) The number and location of ~~large and~~ major recycling facilities qualified under this Article.
(2) The number of new jobs created by each recycling facility.
(3) The amount of investment in each recycling facility.
(4) The amount of credits taken under this Article.

"§ 105-129.27. Credit for investing in ~~large or~~ major recycling facility.

(a) Credit. – An owner that purchases or leases machinery and equipment for a major recycling facility in this State during the taxable year is allowed a credit equal to fifty percent (50%) of the amount payable by the owner during the taxable year to purchase or lease the machinery and equipment. ~~An owner that purchases or leases machinery and equipment for a large recycling facility in this State during the taxable year is allowed a credit equal to twenty percent (20%) of the amount payable by the owner during the taxable year to purchase or lease the machinery and equipment.~~

...."

SECTION 2.2. Article 3G of Chapter 105 of the General Statutes is repealed.

PART III: CONFORMING CHANGES

SECTION 3.1. G.S. 75-29(a) reads as rewritten:

"(a) No person, firm or corporation shall advertise the sale of its merchandise using the term "wholesale" with regard to its sale prices, except as such word may appear in the company or firm name, unless such advertised sale or sales is, or are, to a customer or customers having a certificate of resale issued pursuant to G.S. 105-164.28 and recorded as required by G.S. 105-164.25 or unless the wholesale price is established by an independent agency not engaged in the manufacture, distribution or sale of such merchandise.

No person, firm or corporation shall utilize in any commercial transaction a company or firm name which contains the word "wholesale" unless such person, firm or corporation is engaged principally in sales at wholesale as defined in G.S. 105-164.3. For the purposes of determining whether sales are made principally at wholesale or retail, all sales to employees of any such person, firm or corporation, all sales to organizations subject to refunds pursuant to ~~G.S. 105-164.14, G.S. 105-164.14 through G.S. 105-164.14B~~ and all exempt sales pursuant to G.S. 105-164.13 shall be considered sales at wholesale. Sales of merchandise for delivery by the seller to the purchaser at a location other than the seller's place of business shall be considered sales at wholesale for the purposes of this section."

SECTION 3.2. G.S. 105-129.2(8a) reads as rewritten:

"§ 105-129.2. Definitions.

The following definitions apply in this Article:

- ...
(8a) Eligible major industry. – A taxpayer is an eligible major industry for the purposes of this Article if the taxpayer is primarily engaged in one of the industries listed in ~~G.S. 105-164.14(j)(3)~~ G.S. 105-164.14B and the Secretary of Commerce has certified that the owner of the facility will invest at least one hundred million dollars (\$100,000,000) of private funds to acquire, construct, and equip a facility in this State to engage in one or more of those industries.

...."

SECTION 3.3. G.S. 105-164.3 is amended by adding a new subdivision to read:

"(6a) Development tier. – The classification assigned to an area pursuant to G.S. 143B-437.08."

SECTION 3.4. G.S. 105-187.18(b) reads as rewritten:

"(b) 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~~Article 5 of this Chapter do not apply to the taxes imposed by this Article."

SECTION 3.5. G.S. 105-187.23 reads as rewritten:

"§ 105-187.23. Exemptions and refunds.

(a) Exemptions. – Except for the exemption for sales a state cannot constitutionally tax, the exemptions allowed in G.S. 105-164.13 Article 5 of this Chapter do not apply to the taxes imposed by this Article.

(b) Refunds. – The refunds allowed in ~~G.S. 105-164.14~~Article 5 of this Chapter 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 3.6. G.S. 105-187.33 reads as rewritten:

"§ 105-187.33. Exemptions and refunds.

Except for the exemption for sales a state cannot constitutionally tax, the exemptions and refunds allowed in G.S. 105-164.13 Article 5 of this Chapter 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 3.7. G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...
(6a) To furnish the county or city official designated under ~~G.S. 105-164.14(f)~~G.S. 105-164.29B a list of claimants that have received a refund of the county sales or use tax to the extent authorized in ~~G.S. 105-164.14(f)~~that statute.

...
(31) ~~To verify with a related entity or strategic partner information relating to that entity provided by a taxpayer claiming a credit under Article 3G of this Chapter.~~

...
(35) ~~To furnish to a taxpayer claiming a credit under Article 3G of this Chapter information from a related entity or strategic partner to the extent that information was used by the Secretary to adjust the amount of tax credit claimed by the taxpayer.~~

...
(37) To furnish the Department of Commerce with the information needed to complete the ~~studies~~study required under ~~G.S. 105-129.2A~~ and G.S. 105-129.82.

...."

SECTION 3.8. G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use

taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the 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 entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year. Refunds applied for more than three years after the due date are barred."

PART IV: EFFECTIVE DATE

SECTION 4. This act becomes effective July 1, 2010. The first economic incentives report required by G.S. 105-256, as amended by this act, is due by May 1, 2011. The first claim for refund by a taxpayer whose sales tax refund period is changed by this act is due within six months after July 1, 2010, and applies to purchases during the time period not covered by the taxpayer's last claim for refund.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

Walter H. Dalton
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2010