

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 1050\*  
Committee Substitute Favorable 5/15/14

Short Title: Omnibus Tax Law Changes.

(Public)

Sponsors:

Referred to:

May 15, 2014

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE REVENUE LAWS, AS RECOMMENDED BY THE REVENUE  
3 LAWS STUDY COMMITTEE.

4 The General Assembly of North Carolina enacts:

5  
6 **PART I. DEDUCTION FOR STATE NET LOSS**

7 **SECTION 1.1.(a)** G.S. 105-130.5(b) reads as rewritten:

8 "(b) The following deductions from federal taxable income shall be made in determining  
9 State net income:

10 ...  
11 (4) ~~Losses in the nature of~~ Any unused portion of a net economic loss as allowed  
12 under G.S. 105-130.8A(e). ~~losses sustained by the corporation in any or all~~  
13 ~~of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A~~  
14 ~~corporation required to allocate and apportion its net income under the~~  
15 ~~provisions of G.S. 105-130.4 shall deduct its allocable net economic loss~~  
16 ~~only from total income allocable to this State pursuant to the provisions of~~  
17 ~~G.S. 105-130.8. This subdivision expires for taxable years beginning on or~~  
18 ~~after January 1, 2030.~~

19 (4a) A State net loss as allowed under G.S. 105-130.8A. A corporation may  
20 deduct its allocable and apportionable State net loss only from total income  
21 allocable and apportionable to this State.

22 ...."

23 **SECTION 1.1.(b)** G.S. 105-130.8 is repealed.

24 **SECTION 1.1.(c)** Part 1 of Article 4 of Chapter 105 of the General Statutes is  
25 amended by adding a new section to read:

26 "**§ 105-130.8A. Net loss provisions.**

27 (a) State Net Loss. – A taxpayer's State net loss for a taxable year is the amount by  
28 which allowable deductions for the year, other than prior year losses, exceed gross income  
29 under the Code for the year adjusted as provided in G.S. 105-130.5. In the case of a corporation  
30 that has income from business activity within and without this State, the loss must be allocated  
31 and apportioned to this State in the year of the loss in accordance with G.S. 105-130.4.

32 (b) Deduction. – A taxpayer may carry forward a State net loss the taxpayer incurred in  
33 a prior taxable year and deduct it in the current taxable year, subject to the limitations in this  
34 subsection:

35 (1) The loss was incurred in one of the preceding 15 taxable years.



(2) Any loss carried forward is applied to the next succeeding taxable year before any portion of it is carried forward and applied to a subsequent taxable year.

(c) Mergers and Acquisitions. – The Secretary must apply the standards contained in regulations adopted under sections 381 and 382 of the Code in determining the extent to which a loss survives a merger or an acquisition.

(d) Administration. – A taxpayer claiming a deduction under this section must maintain and make available for inspection by the Secretary all records necessary to determine and verify the amount of the deduction. The Secretary or the taxpayer may redetermine a loss originating in a taxable year that is closed under the statute of limitations for the purpose of determining the amount of loss that can be carried forward to a taxable year that remains open under the statute of limitations.

(e) Net Economic Loss Carryforward. – For taxable years beginning before January 1, 2015, a taxpayer is allowed a net economic loss as calculated under G.S. 105-130.8. In determining and verifying the amount of a net economic loss incurred or carried forward for taxable years beginning before January 1, 2015, the provisions of G.S. 105-130.8 apply. Any unused portion of a net economic loss carried forward to taxable years beginning on or after January 1, 2015, is administered in accordance with this section. This subsection expires for taxable years beginning on or after January 1, 2030."

**SECTION 1.1.(d)** This Part becomes effective for taxable years beginning on or after January 1, 2015.

**PART II. OTHER INCOME TAX CHANGES**

**SECTION 2.1.(a)** G.S. 105-130.5B reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for the taxable year.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

<b>Taxable Year of 85% Add-Back</b>	<b>Dollar Limitation</b>	<b>Investment Limitation</b>
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	<del>\$125,000</del> \$200,000

(e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor is not allowed any remaining future bonus depreciation deductions associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting both the requirements of subsection (e) of this section prior to January 1, 2013, and the conditions of this subsection, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax return, to the extent that the return. If the asset has been disposed of or has no remaining useful life on the books of the transferee, the remaining bonus

1 depreciation deduction may be allowed on the transferee's 2013 tax return. For this subsection  
 2 to apply, the following conditions must be met:

- 3 (1) ~~The transferor has not taken the bonus depreciation deduction on a prior~~  
 4 ~~return and provided that the return.~~
- 5 (2) The transferor certifies in writing to the transferee that the transferor will not  
 6 take any remaining deductions allowed under subsection (a) of this section  
 7 for tax years beginning on or after January 1, 2013, for depreciation  
 8 associated with the transferred asset."

9 **SECTION 2.1.(b)** G.S. 105-134.6A reads as rewritten:

10 "(c) Section 179 Expense. – For purposes of this subdivision, the definition of section  
 11 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A  
 12 taxpayer who places section 179 property in service during a taxable year listed in the table  
 13 below must add to the taxpayer's federal taxable income or adjusted gross income, as  
 14 appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense  
 15 deduction under section 179 of the Code exceeds the dollar and investment limitation listed in  
 16 the table below for that taxable year. For taxable years before 2012, the taxpayer must add the  
 17 amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer  
 18 must add the amount to the taxpayer's adjusted gross income.

19 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first  
 20 five taxable years following the year the taxpayer is required to include the add-back in income.

21 Taxable Year of	Dollar Limitation	Investment Limitation
22 85% Add-Back		
23 2010	\$250,000	\$800,000
24 2011	\$250,000	\$800,000
25 2012	\$250,000	\$800,000
26 2013	\$25,000	<del>\$125,000</del> \$200,000

27 ...  
 28 (e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset  
 29 occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the  
 30 transferor to the transferee for federal income tax purposes, the transferee must add any  
 31 remaining deductions allowed under subsection (a) of this section to the basis of the transferred  
 32 asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the  
 33 provisions of subsection (a) of this section, the transferor and any owner in a transferor are not  
 34 allowed any remaining future bonus depreciation deductions associated with the transferred  
 35 asset. This subsection applies only to the extent that each transferor or owner in a transferor  
 36 that added bonus depreciation to its federal taxable income or adjusted gross income associated  
 37 with the transferred asset certifies in writing to the transferee, that the transferor or owner in a  
 38 transferor will not take any remaining future bonus depreciation deduction associated with the  
 39 transferred asset.

40 (f) Prior Transactions. – For any transaction meeting both the requirements of  
 41 subsection (e) of this section prior to January 1, 2013, and the conditions of this subsection, the  
 42 transferor and transferee can make an election to make the basis adjustment allowed in that  
 43 subsection on the transferee's 2013 tax ~~return, to the extent that the return.~~ If the asset has been  
 44 disposed of or has no remaining useful life on the books of the transferee, the remaining bonus  
 45 depreciation deduction may be allowed on the transferee's 2013 tax return. For this subsection  
 46 to apply, the following conditions must be met:

- 47 (1) ~~The transferor and or any owner in a transferor has not taken the bonus~~  
 48 ~~depreciation deduction on a prior return and provided that the return.~~
- 49 (2) The transferor is not allowed any remaining future bonus depreciation  
 50 deductions associated with the transferred asset and each transferor or owner  
 51 in a transferor certifies in writing to the transferee that the transferor or

owner in a transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset.

(3) The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

...  
 (h) Definitions. – ~~For purposes of this section, a "transferor" is an~~ The following definitions apply in this section:

(1) Transferor. – ~~An individual, partnership, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a~~ beneficiaries.

(2) Owner in a transferor. – One or more of the following of a transferor:

a. A partner, shareholder, member, or member.

b. A ~~or~~ beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter, of a transferor. Chapter.

**SECTION 2.1.(c)** G.S. 105-153.6 reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

<b>Taxable Year of 85% Add-Back</b>	<b>Dollar Limitation</b>	<b>Investment Limitation</b>
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	<del>\$125,000</del> <u>\$200,000</u>

...  
 (e) Bonus Asset Basis. – In the event of an actual or deemed transfer of an asset occurring on or after January 1, 2013, wherein the tax basis of the asset carries over from the transferor to the transferee for federal income tax purposes, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. Notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor that added bonus depreciation to its federal taxable income or adjusted gross income associated with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

(f) Prior Transactions. – For any transaction meeting both the requirements of subsection (e) of this section prior to January 1, 2013, and the conditions of this subsection, the transferor and transferee can make an election to make the basis adjustment allowed in that subsection on the transferee's 2013 tax ~~return, to the extent that the~~ return. If the asset has been

1 disposed of or has no remaining useful life on the books of the transferee, the remaining bonus  
 2 depreciation deduction may be allowed on the transferee's 2013 tax return. For this subsection  
 3 to apply, the following conditions must be met:

4 (1) The transferor ~~and~~ or any owner in a transferor has not taken the bonus  
 5 depreciation deduction on a prior ~~return and provided that the~~ return.

6 (2) The transferor is not allowed any remaining future bonus depreciation  
 7 deductions associated with the transferred asset and each transferor or owner  
 8 in a transferor certifies in writing to the transferee that the transferor or  
 9 owner in a transferor will not take any remaining deductions allowed under  
 10 subsection (a) of this section for tax years beginning on or after January 1,  
 11 2013, for depreciation associated with the transferred asset.

12 (3) The amount of the basis adjustment under this subsection is limited to the  
 13 total remaining future bonus depreciation deductions forfeited by the  
 14 transferor and any owner in the transferor at the time of the transfer.

15 ...

16 (h) Definitions. – For purposes of this section, a "transferor" is an ~~The following~~  
 17 definitions apply in this section:

18 (1) Transferor. – An individual, partnership, S Corporation, limited liability  
 19 company, or an estate or trust that does not fully distribute income to its  
 20 beneficiaries, and an "owner in a transferor" is a beneficiaries.

21 (2) Owner in a transferor. – One or more of the following of a transferor:

22 a. A partner, shareholder, ~~member, or member.~~

23 b. A ~~or~~ beneficiary subject to tax under Part 2 or 3 of Article 4 of this  
 24 Chapter, of a transferor. ~~Chapter.~~"

25 **SECTION 2.1.(d)** Subsection (c) of this section is effective for taxable years  
 26 beginning on or after January 1, 2014. The remainder of this section is effective for taxable  
 27 years beginning on or after January 1, 2013.

28 **SECTION 2.2.(a)** G.S. 105-153.5(a) reads as rewritten:

29 **"§ 105-153.5. Modifications to adjusted gross income.**

30 (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may  
 31 deduct from adjusted gross income either the standard deduction amount provided in  
 32 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)  
 33 of this subsection that the taxpayer claimed under the Code. ~~In the case of a married couple~~  
 34 ~~filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer~~  
 35 ~~or the taxpayer's spouse claims the itemized deductions amount:~~

36 (1) Standard deduction amount. – The standard deduction amount is zero for a  
 37 person who is not eligible for a standard deduction under Section 63 of the  
 38 Code. For all other taxpayers, the standard deduction ~~An amount is equal to~~  
 39 the amount listed in the table below based on the taxpayer's filing status:

<b>Filing Status</b>	<b>Standard Deduction</b>
Married, filing jointly	\$15,000
Head of Household	12,000
Single	7,500
Married, filing separately	7,500.

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

49 a. The amount allowed as a deduction for charitable contributions under  
 50 section 170 of the Code for that taxable year.

1           b.     The amount allowed as a deduction for interest paid or accrued  
2                 during the taxable year under section 163(h) of the Code with respect  
3                 to any qualified residence plus the amount claimed by the taxpayer as  
4                 a deduction for property taxes paid or accrued on real estate under  
5                 section 164 of the Code for that taxable year. The amount allowed  
6                 under this sub-subdivision may not exceed twenty thousand dollars  
7                 (\$20,000). For spouses filing as married filing separately or married  
8                 filing jointly, the total mortgage interest and real estate taxes claimed  
9                 by both spouses combined may not exceed twenty thousand dollars  
10                (\$20,000). For spouses filing as married filing separately with a joint  
11                obligation for mortgage interest and real estate taxes, the deduction  
12                for these items is allowable to the spouse who actually paid them. If  
13                the amount of the mortgage interest and real estate taxes paid by both  
14                spouses exceeds twenty thousand dollars (\$20,000), these deductions  
15                must be prorated based on the percentage paid by each spouse. For  
16                joint obligations paid from joint accounts, the proration is based on  
17                the income reported by each spouse for that taxable year."

18           **SECTION 2.2.(b)** This section is effective for taxable years beginning on or after  
19 January 1, 2014.

20           **SECTION 2.3.(a)** G.S. 105-160.2 reads as rewritten:

21           "**§ 105-160.2. Imposition of tax.**

22           The tax imposed by this Part applies to the taxable income of estates and trusts as  
23           determined under the provisions of the Code except as otherwise provided in this Part. The  
24           taxable income of an estate or trust is the same as taxable income for such an estate or trust  
25           under the provisions of the Code, adjusted as provided in ~~G.S. 105-134.6 and G.S. 105-134.6A,~~  
26           G.S. 105-153.5 and G.S. 105-153.6, except that the adjustments provided in ~~G.S. 105-134.6~~  
27           and G.S. 105-134.6A-G.S. 105-153.5 and G.S. 105-153.6 are apportioned between the estate or  
28           trust and the beneficiaries based on the distributions made during the taxable year. The tax is  
29           computed on the amount of the taxable income of the estate or trust that is for the benefit of a  
30           resident of this State, or for the benefit of a nonresident to the extent that the income (i) is  
31           derived from North Carolina sources and is attributable to the ownership of any interest in real  
32           or tangible personal property in this State or (ii) is derived from a business, trade, profession, or  
33           occupation carried on in this State. For purposes of the preceding sentence, taxable income and  
34           gross income is computed subject to the adjustments provided in ~~G.S. 105-134.6 and~~  
35           G.S. 105-134.6A-G.S. 105-153.5 and G.S. 105-153.6. The tax on the amount computed above  
36           is at the rates levied in ~~G.S. 105-134.2(a)(3)-G.S. 105-153.7.~~ The fiduciary responsible for  
37           administering the estate or trust shall pay the tax computed under the provisions of this Part."

38           **SECTION 2.3.(b)** This section is effective for taxable years beginning on or after  
39 January 1, 2014.

### 40 41 **PART III. AGRICULTURAL EXEMPTION CERTIFICATE**

42           **SECTION 3.1.(a)** G.S. 105-164.13E reads as rewritten:

43           "**§ 105-164.13E. Exemption for qualifying farmers.**

44           A qualifying farmer is a person who has an annual gross income for the preceding taxable  
45           year of ten thousand dollars (\$10,000) or more from farming operations or who has an average  
46           annual gross income for the three preceding taxable years of ten thousand dollars (\$10,000) or  
47           more from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer,  
48           an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as  
49           defined in G.S. 106-758. A qualifying farmer may apply to the Secretary for an exemption  
50           certificate number under G.S. 105-164.28A. The exemption certificate expires when a person  
51           fails to meet the income threshold for three consecutive years or ceases to engage in farming

1 ~~operations.~~The following tangible personal property, digital property, and services are  
2 exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in  
3 the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy  
4 products, eggs, or animals. A qualifying farmer is a farmer who has an annual gross income of  
5 ten thousand dollars (\$10,000) or more from farming operations for the preceding calendar year  
6 and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of  
7 crops, and a farmer of an aquatic species, as defined in G.S. 106-758:animals:

8 ...."

9 **SECTION 3.1.(b)** G.S. 105-164.28A(a) reads as rewritten:

10 "(a) Authorization. – The Secretary may require a person who purchases an item that is  
11 exempt from tax or is subject to a preferential rate of tax depending on the status of the  
12 purchaser or the intended use of the item to obtain an exemption certificate from the  
13 Department to receive the exemption or preferential rate. ~~At~~The Department must issue a  
14 preferential rate or use-based exemption number to a person who qualifies for the exemption or  
15 preferential rate. The number must be included on the person's certificate of exemption. A  
16 person who no longer qualifies for a preferential rate or use-based exemption number must  
17 notify the Secretary within 30 days to cancel the number.

18 An exemption certificate issued by the purchaser authorizes a retailer to sell an item to the  
19 holder of the certificate and either collect tax at a preferential rate or not collect tax on the sale,  
20 as appropriate. A person who no longer qualifies for an exemption certificate must give notice  
21 to each seller that may rely on the exemption certificate on or before the next purchase. A  
22 person who purchases an item under an exemption certificate is liable for any tax due on the  
23 sale-purchase if the Department determines that the person is not eligible for the certificate.  
24 exemption certificate or if the person purchased items that do not qualify for an exemption  
25 under the exemption certificate. The liability is relieved when the seller obtains the purchaser's  
26 name, address, type of business, reason for exemption, and exemption number in lieu of  
27 obtaining an exemption certificate."

28 **SECTION 3.1.(c)** A person who has an agricultural exemption certificate number  
29 issued prior to July 1, 2014, that meets the requirements of G.S. 105-164.13E for a qualifying  
30 farmer should apply for a new agricultural exemption certificate number before July 1, 2014,  
31 for use for qualifying purchases made on or after October 1, 2014. A person that meets the  
32 requirements of G.S. 105-164.13E for a qualifying farmer and who has an agricultural  
33 exemption certificate number issued prior to July 1, 2014, may continue to use that agricultural  
34 exemption certificate number for qualifying purchases made prior to October 1, 2014.

35 **SECTION 3.1.(d)** A person who has an agricultural exemption certificate number  
36 issued before July 1, 2014, that does not meet the requirements of G.S. 105-164.13E for a  
37 qualifying farmer must give notice to a seller that the person no longer qualifies for an  
38 exemption for purchases made on or after July 1, 2014, and the seller must collect any tax due  
39 on the sale. A seller that relies on a copy of an agricultural certificate of exemption and meets  
40 the requirements of G.S. 105-164.28 is not liable for any tax due on the sale.

41 **SECTION 3.1.(e)** This Part becomes effective July 1, 2014, and applies to  
42 purchases made on or after that date.

#### 43 **PART IV. PREPAID MEAL PLANS**

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

##### 45 **"§ 105-164.3. Definitions.**

46 The following definitions apply in this Article:

47 ...

48 ~~(26b)~~(27) Prepaid calling service. – A right that meets all of the following  
49 requirements:

50 a. Authorizes the exclusive purchase of telecommunications service.  
51

- 1 b. Must be paid for in advance.  
 2 c. Enables the origination of calls by means of an access number,  
 3 authorization code, or another similar means, regardless of whether  
 4 the access number or authorization code is manually or electronically  
 5 dialed.  
 6 d. Is sold in predetermined units or dollars whose number or dollar  
 7 value declines with use and is known on a continuous basis.

8 (27a) Prepaid meal plan. – A plan offered by an institution of higher education that  
 9 meets all of the following requirements:

- 10 a. Entitles a person to food or prepared food.  
 11 b. Must be billed or paid for in advance.  
 12 c. Provides for predetermined units or unlimited access to food or  
 13 prepared food but does not include a dollar value that declines with  
 14 use.

15 ~~(27)~~(27b) Prepaid telephone calling service. – Prepaid calling service or prepaid  
 16 wireless calling service.

17 ~~(27a)~~(27c) Prepaid wireless calling service. – A right that meets all of the following  
 18 requirements:

- 19 a. Authorizes the purchase of mobile telecommunications service,  
 20 either exclusively or in conjunction with other services.  
 21 b. Must be paid for in advance.  
 22 c. Is sold in predetermined units or dollars whose number or dollar  
 23 value declines with use and is known on a continuous basis.

24 ...."

25 **SECTION 4.1.(b)** G.S. 105-164.4(a) is amended by adding a new subdivision to

26 read:

27 **"§ 105-164.4. Tax imposed on retailers.**

28 (a) A privilege tax is imposed on a retailer at the following percentage rates of the  
 29 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and  
 30 three-quarters percent (4.75%).

31 ...

32 (12) The general rate of tax applies to the sales price of or gross receipts derived  
 33 from a prepaid meal plan. A bundle that includes a prepaid meal plan is  
 34 taxable in accordance with G.S. 105-164.4D."

35 **SECTION 4.1.(c)** G.S. 105-164.4B is amended by adding a new subsection to

36 read:

37 **"§ 105-164.4B. Sourcing principles.**

38 ...

39 (g) Prepaid Meal Plan. – The gross receipts derived from a prepaid meal plan are  
 40 sourced to the location where the food or prepared food is available to be consumed by the  
 41 person."

42 **SECTION 4.1.(d)** G.S. 105-164.4D(a) reads as rewritten:

43 "(a) Tax Application. – Tax applies to the sales price of a bundled transaction unless one  
 44 of the following applies:

- 45 (1) Fifty percent (50%) test. – All of the products in the bundle are tangible  
 46 personal property, the bundle includes one or more of the exempt products  
 47 listed in this subdivision, and the price of the taxable products in the bundle  
 48 does not exceed fifty percent (50%) of the price of the bundle:  
 49 a. Food exempt under G.S. 105-164.13B.  
 50 b. A drug exempt under G.S. 105-164.13(13).



1 c. Medical devices, equipment, or supplies exempt under  
2 G.S. 105-164.13(12).

3 (2) Allocation. – The bundle includes a service, and the retailer determines an  
4 allocated price for each product in the bundle based on a reasonable  
5 allocation of revenue that is supported by the retailer's business records kept  
6 in the ordinary course of business. In this circumstance, tax applies to the  
7 allocated price of each taxable product in the bundle.

8 (3) Ten percent (10%) test. – The price of the taxable products in the bundle  
9 does not exceed ten percent (10%) of the price of the bundle, and no other  
10 subdivision in this subsection applies.

11 (4) Prepaid meal plan. – The bundle includes a prepaid meal plan and a dollar  
12 value that declines with use. In this circumstance, tax applies to the allocated  
13 price of the prepaid meal plan. The tax applies to items purchased with the  
14 dollar value that declines with use as the dollar value is presented for  
15 payment.

16 (5) Tuition, room, and meals. – The bundle includes tuition, room, and meals  
17 offered by an institution of higher education. In this circumstance, tax  
18 applies to the allocated price of the meals. The institution determines the  
19 allocated price for meals based on a reasonable allocation of revenue that is  
20 supported by the institution's business records kept in the ordinary course of  
21 business."

22 **SECTION 4.1.(e)** G.S. 105-164.13 reads as rewritten:

23 **"§ 105-164.13. Retail sales and use tax.**

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

27 ...

28 (26) Food and prepared food sold not for profit by a nonpublic or public school,  
29 including a charter school and a regional school, within the school building  
30 during the regular school day. For purposes of this exemption, the term  
31 "school" is an entity regulated under Chapter 115C of the General Statutes.

32 ...

33 (63) Food and prepared food to be provided to a person entitled to the food and  
34 prepared food under a prepaid meal plan subject to tax under  
35 G.S. 105-164.4(a)(12)."

36 **SECTION 4.1.(f)** Part 4 of Article 5 of Chapter 105 of the General Statutes is  
37 amended by adding a new section to read:

38 **"§ 105-164.16A. Reporting option for prepaid meal plans.**

39 This section provides a taxpayer that offers to sell a prepaid meal plan with an option  
40 concerning the method by which the sales tax will be remitted to the Secretary and a return  
41 filed under G.S. 105-164.16. When the retailer enters into an agreement with a food service  
42 contractor by which the food service contractor agrees to provide food or prepared food under a  
43 prepaid meal plan, and the food service contractor with whom the retailer contracts is also a  
44 retailer under this Article, the retailer may include in the agreement that the food service  
45 contractor is liable for collecting and remitting the sales tax due on the gross receipts derived  
46 from the prepaid meal plan on behalf of the retailer. The agreement must provide that the tax  
47 applies to the allocated sales price of the prepaid meal plan paid by or on behalf of the person  
48 entitled to the food or prepaid food under the plan and not the amount charged by the food  
49 service contractor to the retailer under the agreement for the food and prepared food for the  
50 person.

1 A retailer who elects this option must report to the food service contractor with whom it has  
2 an agreement the gross receipts a person pays to the retailer for a prepaid meal plan. The  
3 retailer must send the food service contractor the tax due on the gross receipts derived from a  
4 prepaid meal plan."

5 **SECTION 4.1.(g)** This Part is effective when it becomes law and applies to gross  
6 receipts derived from a prepaid meal plan sold or billed on or after July 1, 2014.

## 8 **PART V. ADMISSIONS**

9 **SECTION 5.1.(a)** G.S. 105-164.4(a) reads as rewritten:

10 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
11 retailer's net taxable sales or gross receipts, as appropriate. For purposes of this section, the  
12 term "gross receipts" has the same meaning as the term "sales price." The general rate of tax is  
13 four and three-quarters percent (4.75%).

14 ...  
15 (10) The general rate of tax applies to the gross receipts derived from an  
16 admission charges—charge to an entertainment activity—activity. Gross  
17 receipts derived from an admission charge to an entertainment activity are  
18 taxable in accordance with 105-164.4G. listed in this subdivision. Offering  
19 any of these listed activities is a service. An admission charge includes a  
20 charge for a single ticket, a multioccasion ticket, a seasonal pass, an annual  
21 pass, and a cover charge.

22 ~~An admission charge does not include a charge for amenities. If charges~~  
23 ~~for amenities are not separately stated on the face of an admission ticket,~~  
24 ~~then the charge for admission is considered to be equal to the admission~~  
25 ~~charge for a ticket to the same event that does not include amenities and is~~  
26 ~~for a seat located directly in front of or closest to a seat that includes~~  
27 ~~amenities.~~

28 ~~When an admission ticket is resold and the price of the admission ticket~~  
29 ~~is printed on the face of the ticket, the tax does not apply to the face price.~~  
30 ~~When an admission ticket is resold and the price of the admission ticket is~~  
31 ~~not printed on the face of the ticket, the tax applies to the difference between~~  
32 ~~the amount the reseller paid for the ticket and the amount the reseller charges~~  
33 ~~for the ticket.~~

34 ~~Admission charges to the following entertainment activities are subject~~  
35 ~~to tax:~~

36 a. ~~A live performance or other live event of any kind.~~

37 b. ~~A motion picture or film.~~

38 e. ~~A museum, a cultural site, a garden, an exhibit, a show, or a similar~~  
39 ~~attraction or a guided tour at any of these attractions."~~

40 **SECTION 5.1.(b)** G.S. 105-164.4B is amended by adding a new subsection to  
41 read:

42 **"§ 105-164.4B. Sourcing principles.**

43 ...  
44 (g) Admissions. – The gross receipts derived from an admission charge, as defined in  
45 G.S. 105-164.4G, are sourced in accordance with G.S. 105-164.4G."

46 **SECTION 5.1.(c)** Article 5 of Chapter 105 of the General Statutes is amended by  
47 adding the following new section to read:

48 **"§ 105-164.4G. Entertainment activity.**

49 (a) Definition. – The following definitions apply in this section:

50 (1) Admission charge. – Gross receipts derived for the right to attend an  
51 entertainment activity. The term includes a charge for a single ticket, a

1 multi-occasion ticket, a seasonal pass, and an annual pass; a membership fee  
2 that provides for admission; a cover charge; a surcharge; a convenience fee,  
3 a processing fee, a facility charge, a facilitation fee, or similar charge; or any  
4 other charges included in gross receipts derived from admission.

5 (2) Amenity. – A feature that increases the value or attractiveness of an  
6 entertainment activity that allows a person access to items that are not  
7 subject to tax under this Article and that are not available with the purchase  
8 of admission to the same event without the feature. The term includes  
9 parking privileges, special entrances, access to areas other than general  
10 admission, mascot visits, and merchandise discounts. The term does not  
11 include any charge for food, prepared food, and alcoholic beverages subject  
12 to tax under this Article.

13 (3) Entertainment activity. – An activity listed in this subdivision:

14 a. A live performance or other live event of any kind, the purpose of  
15 which is for entertainment.

16 b. A movie, motion picture, or film.

17 c. A museum, a cultural site, a garden, an exhibit, a show, or a similar  
18 attraction.

19 d. A guided tour at any of the activities listed in sub-subdivision c. of  
20 this subdivision.

21 (4) Facilitator. – A person who accepts payment of an admission charge to an  
22 entertainment activity and who is not the operator of the venue where the  
23 entertainment activity occurs.

24 (b) Tax. – The gross receipts derived from an admission charge to an entertainment  
25 activity are taxed at the general rate set in G.S. 105-164.4. The tax is due and payable by the  
26 retailer in accordance with G.S. 105-164.16. For purposes of the tax imposed by this section,  
27 the retailer is the applicable person listed below:

28 (1) The operator of the venue where the entertainment activity occurs, unless the  
29 retailer and the facilitator have a contract between them allowing for dual  
30 remittance, as provided in subsection (d) of this section.

31 (2) The person that provides the entertainment and that receives admission  
32 charges directly from a purchaser.

33 (c) Facilitator. – A facilitator must report to the retailer with whom it has a contract the  
34 admission charge a consumer pays to the facilitator for an entertainment activity. The facilitator  
35 must send the retailer the portion of the gross receipts the facilitator owes the retailer and the  
36 tax due on the gross receipts derived from an admission charge no later than 10 days after the  
37 end of each calendar month. A facilitator that does not send the retailer the tax due on the gross  
38 receipts derived from an admission charge is liable for the amount of tax the facilitator fails to  
39 send to the retailer. A facilitator is not liable for tax sent to a retailer but not remitted by the  
40 retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust  
41 by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a  
42 facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due  
43 but not received from a facilitator. The requirements imposed by this subsection on a retailer  
44 and a facilitator are considered terms of the contract between the retailer and the facilitator.

45 (d) Dual Remittance. – The tax due on the gross receipts derived from an admission  
46 charge may be partially reported and remitted to the operator of the venue for remittance to the  
47 Department and partially reported and remitted by the facilitator directly to the Department.  
48 The portion of the tax not reported and remitted to the operator of the venue must be reported  
49 and remitted directly by the facilitator to the Department. A facilitator that elects to remit tax  
50 under the dual remittance option is required to obtain a certificate of registration in accordance  
51 with G.S. 105-164.29. A facilitator is subject to the provisions of Article 9 of this Chapter.

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

2 (1) An amount paid for the right to participate in sporting activities. Examples  
3 of these types of charges include bowling fees, golf green fees, and gym  
4 memberships.

5 (2) Tuition, registration fees, or charges to attend instructional seminars,  
6 conferences, or workshops for educational purposes.

7 (3) A political contribution.

8 (4) A charge for lifetime seat rights, lease, or rental of a suite or box for an  
9 entertainment activity, provided the charge is separately stated on an invoice  
10 or similar billing document given to the purchaser at the time of sale.

11 (5) An amount paid solely for transportation.

12 (f) Exemptions. – The following gross receipts derived from an admission charge to an  
13 entertainment activity are specifically exempt from the tax imposed by this Article:

14 (1) The portion of a membership charge that is deductible as a charitable  
15 contribution under section 170 of the Code.

16 (2) A donation that is deductible as a charitable contribution under section 170  
17 of the Code.

18 (3) Charges for an amenity. If charges for amenities are separately stated on a  
19 billing document given to the purchaser at the time of the sale, then the tax  
20 does not apply to the separately stated charges for amenities. If charges for  
21 amenities are not separately stated on the billing document given to the  
22 purchaser at the time of the sale, then the transaction is a bundled transaction  
23 and taxed in accordance with G.S. 105-164.4D except that  
24 G.S. 105-164.4D(a)(3) does not apply.

25 (4) An event that is sponsored by an elementary or secondary school. For  
26 purposes of this exemption, the term "school" is an entity regulated under  
27 Chapter 115C of the General Statutes.

28 (5) An event sponsored solely by a nonprofit entity that is exempt from tax  
29 under Article 4 of this Chapter if all of the following conditions are met:

30 a. The entire proceeds of the activity are used exclusively for the  
31 entity's nonprofit purposes.

32 b. The entity does not declare dividends, receive profits, or pay salary  
33 or other compensation to any members or individuals.

34 c. The entity does not compensate any person for participating in the  
35 event, performing in the event, placing in the event, or producing the  
36 event. For purposes of this subdivision, the term "compensate" means  
37 any remuneration included in a person's gross income as defined in  
38 section 61 of the Code.

39 (g) Sourcing. – Admission to an entertainment activity is sourced to the location where  
40 admission to the entertainment activity may be gained by a person. When the location where  
41 admission may be gained is not known at the time of the receipt of the gross receipts for an  
42 admission charge, the sourcing principles in G.S. 105-164.4B(a) apply."

43 **SECTION 5.1.(d)** G.S. 105-164.13(60) reads as rewritten:

44 "(60) ~~Admission charges to any of the following entertainment activities:~~Gross  
45 receipts derived from an admission charge to an entertainment activity are  
46 exempt as provided in G.S. 105-164.4G.

47 a. ~~An event that is held at an elementary or secondary school and is~~  
48 ~~sponsored by the school.~~

49 b. ~~A commercial agricultural fair that meets the requirements of~~  
50 ~~G.S. 106-520.1, as determined by the Commissioner of Agriculture.~~

- 1 e. ~~A festival or other recreational or entertainment activity that lasts no~~  
 2 ~~more than seven consecutive days and is sponsored by a nonprofit~~  
 3 ~~entity that is exempt from tax under Article 4 of this Chapter and~~  
 4 ~~uses the entire proceeds of the activity exclusively for the entity's~~  
 5 ~~nonprofit purposes. This exemption applies to the first two activities~~  
 6 ~~sponsored by the entity during a calendar year.~~
- 7 d. ~~A youth athletic contest sponsored by a nonprofit entity that is~~  
 8 ~~exempt from tax under Article 4 of this Chapter. For the purpose of~~  
 9 ~~this subdivision, a youth athletic contest is a contest in which each~~  
 10 ~~participating athlete is less than 20 years of age at the time of~~  
 11 ~~enrollment.~~
- 12 e. ~~A State attraction. A State attraction is a physical place supported~~  
 13 ~~with State funds that offers cultural, educational, historical, or~~  
 14 ~~recreational opportunities. The term "State funds" has the same~~  
 15 ~~meaning as defined in G.S. 143C-1-1."~~

16 **SECTION 5.1.(e)** G.S. 105-164.13(34) and G.S. 105-164.13(35) read as rewritten:

17 **"§ 105-164.13. Retail sales and use tax.**

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

- 21 ...
- 22 (34) Sales of items by a nonprofit civic, charitable, educational, scientific or  
 23 literary organization when the net proceeds of the sales will be given or  
 24 contributed to the State of North Carolina or to one or more of its agencies  
 25 or instrumentalities, or to one or more nonprofit charitable organizations,  
 26 one of whose purposes is to serve as a conduit through which such net  
 27 proceeds will flow to the State or to one or more of its agencies or  
 28 instrumentalities. This exemption does not apply to gross receipts derived  
 29 from an admission charge to an entertainment activity.
- 30 (35) Sales by a nonprofit civic, charitable, educational, scientific, literary, or  
 31 fraternal organization when all of the ~~following~~ conditions listed in this  
 32 subdivision are met:met. This exemption does not apply to gross receipts  
 33 derived from an admission charge to an entertainment activity.
- 34 a. The sales are conducted only upon an annual basis for the purpose of  
 35 raising funds for the organization's activities.
- 36 b. The proceeds of the sale are actually used for the organization's  
 37 activities.
- 38 c. The products sold are delivered to the purchaser within 60 days after  
 39 the first solicitation of any sale made during the organization's annual  
 40 sales period."

41 **SECTION 5.1.(f)** Section 5(f) of S.L. 2013-316 reads as rewritten:

42 **"SECTION 5.(f)** This section becomes effective January 1, 2014, and applies to ~~admissions~~  
 43 ~~purchased~~ gross receipts derived from an admission charge sold at retail on or after that date.  
 44 For admissions to a live event, the tax applies to the initial sale or resale of tickets occurring on  
 45 or after that date; gross receipts received on or after January 1, 2014, for admission to a live  
 46 event, for which the initial sale of tickets occurred before that date, other than gross receipts  
 47 received by a ticket reseller, are taxable under G.S. 105-37.1. Gross receipts derived from an  
 48 admission charge sold at retail to a live event occurring on or after January 1, 2015, are taxable  
 49 under G.S. 105-164.4G, regardless of when the initial sale of a ticket to the event occurred."

1           **SECTION 5.1.(g)** Subsection (d) of this section and G.S. 105-164.4G(f)(4) and  
2 G.S. 105-164.4G(f)(5), as enacted by subsection (c) of this section, become effective January 1,  
3 2015. The remainder of this Part is effective when it becomes law.

4  
5 **PART VI. SERVICE CONTRACTS**

6           **SECTION 6.1.(a)** G.S. 105-164.3(38b) reads as rewritten:

7 **"§ 105-164.3. Definitions.**

8           The following definitions apply in this Article:

9           ...

10           (38b) Service contract. – A contract where the obligor under the contract agrees to  
11 maintain or repair tangible personal property or a motor vehicle. Examples  
12 of a service contract include ~~A~~a warranty agreement, agreement other than a  
13 manufacturer's warranty or dealer's warranty provided at no charge to the  
14 purchaser, an extended warranty agreement, a maintenance agreement, a  
15 repair contract, or a similar agreement or ~~contract by which the seller agrees~~  
16 to maintain or repair tangible personal property contract.

17           ...."

18           **SECTION 6.1.(b)** G.S. 105-164.4(a)(11) reads as rewritten:

19           "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
20 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and  
21 three-quarters percent (4.75%).

22           ...

23           (11) The general rate of tax applies to the sales price of or the gross receipts  
24 derived from a service contract. A service contract is taxed in accordance  
25 with G.S. 105-164.4I."

26           **SECTION 6.1.(c)** Article 5 of Chapter 105 of the General Statutes is amended by  
27 adding a new section to read:

28 **"§ 105-164.4I. Service contracts.**

29           (a) Tax. – The sales price of or the gross receipts derived from a service contract or the  
30 renewal of a service contract sold at retail is subject to the general rate of tax set in  
31 G.S. 105-164.4 and is sourced in accordance with the sourcing principles in G.S. 105-164.4B.  
32 The retailer of a service contract is required to collect the tax due at the time of the retail sale of  
33 the contract and is liable for payment of the tax. The tax is due and payable in accordance with  
34 G.S. 105-164.16.

35           The retailer of a service contract is the applicable person listed below:

36           (1) When a service contract is sold at retail to a purchaser by the obligor under  
37 the contract, the obligor is the retailer.

38           (2) When a service contract is sold at retail to a purchaser by a facilitator on  
39 behalf of the obligor under the contract, the facilitator is the retailer unless  
40 the provisions of subdivision (3) of this subsection apply.

41           (3) When a service contract is sold at retail to a purchaser by a facilitator on  
42 behalf of the obligor under the contract and there is an agreement between  
43 the facilitator and the obligor that states the obligor will be liable for the  
44 payment of the tax, the obligor is the retailer. The facilitator must send the  
45 retailer the tax due on the sales price of or gross receipts derived from the  
46 service contract no later than 10 days after the end of each calendar month.  
47 A facilitator that does not send the retailer the tax due on the sales price or  
48 gross receipts is liable for the amount of tax the facilitator fails to send. A  
49 facilitator is not liable for tax sent to a retailer but not remitted by the retailer  
50 to the Secretary. Tax payments received by a retailer from a facilitator are  
51 held in trust by the retailer for remittance to the Secretary. A retailer that

1 receives a tax payment from a facilitator must remit the amount received to  
2 the Secretary. A retailer is not liable for tax due but not received from a  
3 facilitator. The requirements imposed by this subdivision on a retailer and a  
4 facilitator are considered terms of the agreement between the retailer and the  
5 facilitator.

6 (b) Exemptions. – The tax imposed by this section does not apply to the sales price of  
7 or the gross receipts derived from a service contract applicable to any of the following items:

8 (1) An item exempt from tax under this Article, other than a motor vehicle  
9 exempt from tax under G.S. 105-164.13(32).

10 (2) A transmission, distribution, or other network asset contained on  
11 utility-owned land, right-of-way, or easement.

12 (3) An item purchased by a professional motorsports racing team for which the  
13 team may receive a sales tax refund under G.S. 105-164.14A(5).

14 (4) An item subject to tax under Article 5F of Chapter 105 of the General  
15 Statutes.

16 (c) Exceptions. – The tax does not apply to the sales price of or the gross receipts  
17 derived from a service contract for tangible personal property sold at retail that is or will  
18 become a part of real property unless the service contract is sold by the obligor or by a third  
19 party or facilitator on behalf of the obligor at the same time as the item of tangible personal  
20 property covered in the service contract. The tax imposed by this section does not apply to a  
21 security or similar monitoring contract for real property or to a renewal of a service contract  
22 where the tangible personal property becomes a part of or affixed to real property prior to the  
23 effective date of the renewal.

24 (d) Basis of Reporting. – A retailer who sells or derives gross receipts from a service  
25 contract must report those sales on an accrual basis of accounting, notwithstanding that the  
26 retailer reports tax on the cash basis for other sales at retail. The tax on the sales price of or the  
27 gross receipts derived from a service contract is due at the time of the retail sale,  
28 notwithstanding any portion that may be financed. If the sales price of or the gross receipts  
29 derived from the service contract is financed in whole or in part, the financed amount of the  
30 sales price of or the gross receipts derived from the service contract included in each payment  
31 is exempt from sales tax if the amount is separately stated in the contract and on the billing  
32 statement or other documentation provided to the purchaser at the time of the sale.

33 (e) Definition. – For purposes of this section, the term "facilitator" means a person who  
34 contracts with the obligor of the service contract to market the service contract and accepts  
35 payment from the purchaser for the service contract."

36 **SECTION 6.1.(d)** Part 2 of Article 5 of Chapter 105 of the General Statutes is  
37 amended by adding a new section to read:

38 **"§ 105-164.11A. Refund of tax paid on rescinded sale or cancellation of service.**

39 (a) Refund. – A retailer is allowed a refund of sales tax remitted on a rescinded sale or  
40 cancelled service. A sale is rescinded when the purchaser returns an item to the retailer and  
41 receives a refund, in whole or in part, of the sales price paid, including a refund of the sales tax  
42 based on the taxable amount of the refund. A service is cancelled when the service is  
43 terminated and the purchaser receives a refund, in whole or in part, of the sales price paid,  
44 including a refund of the sales tax based on the taxable amount of the refund. A retailer entitled  
45 to a refund under this section may reduce taxable receipts by the taxable amount of the refund  
46 for the period in which the refund occurs or may request a refund of an overpayment as  
47 provided in G.S. 105-241.7 provided the tax has been refunded to the purchaser. The records of  
48 the retailer must clearly reflect and support the claim for refund for an overpayment of tax or  
49 adjustment to taxable receipts for the period in which the refund occurs.

50 (b) Service Contract. – When a service contract is cancelled and a purchaser receives a  
51 refund, in whole or in part, of the sales price paid for the service contract, the purchaser may

1 receive a refund of the sales tax based on the taxable amount of the refund as provided in this  
2 subsection.

- 3 (1) Refund from retailer. – If the purchaser receives a refund on any portion of  
4 the sales price for a service contract purchased from the retailer required to  
5 remit the tax on the retail sale of the service contract, then the provisions of  
6 subsection (a) of this section apply.
- 7 (2) Refund application. – If the purchaser receives a refund on any portion of the  
8 sales price for a service contract from a person other than the retailer  
9 required to remit the tax on the retail sale of the service contract, then the  
10 amount refunded to the purchaser by the person does not have to include the  
11 sales tax on the taxable amount of the refund. If the amount refunded to the  
12 purchaser by the person does not include the sales tax paid, then the  
13 purchaser may apply to the Department for a refund of the pro rata amount  
14 of the tax paid based on the taxable amount of the service contract refunded  
15 to the purchaser. The application for a refund by a purchaser must be made  
16 on a form prescribed by the Secretary, supported by documentation on the  
17 taxable amount of the service contract refunded to the purchaser from the  
18 person who refunded that amount, and filed within 30 days after the  
19 purchaser receives a refund. An application for a refund filed by the  
20 purchaser after the due date is barred. Taxes for which a refund is allowed  
21 directly to the purchaser are not an overpayment of tax and do not accrue  
22 interest as provided in G.S. 105-241.21."

23 **SECTION 6.1.(e)** G.S. 105-164.13(61) reads as rewritten:

- 24 "(61) A service contract for tangible personal property ~~that is provided for any of~~  
25 ~~the following:~~ may be exempt as provided in G.S. 105-164.4I.
- 26 a. ~~An item exempt from tax under this Article, other than an item~~  
27 ~~exempt from tax under G.S. 105-164.13(32).~~
- 28 b. ~~A transmission, distribution, or other network asset contained on~~  
29 ~~utility-owned land, right-of-way, or easement.~~
- 30 c. ~~An item purchased by a professional motorsports racing team for~~  
31 ~~which the team may receive a sales tax refund under~~  
32 ~~G.S. 105-164.14A(5)."~~

33 **SECTION 6.1.(f)** G.S. 105-164.13(62) reads as rewritten:

34 "**§ 105-164.13. Retail sales and use tax.**

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

- 38 ...
- 39 (62) An item used to maintain or repair tangible personal property or a motor  
40 vehicle pursuant to a service contract if the purchaser of the contract is not  
41 charged for the item. This exemption does not apply to an item used to  
42 maintain or repair tangible personal property pursuant to a service contract  
43 exempt from tax under G.S. 105-164.4I(b). For purposes of this exemption,  
44 the term "item" does not include a tool, equipment, supply, or similar  
45 tangible personal property used to complete the maintenance or repair and  
46 that is not deemed to be a component or repair part of the tangible personal  
47 property or motor vehicle for which a service contract is sold to a  
48 purchaser."

49 **SECTION 6.1.(g)** G.S. 105-187.3 reads as rewritten:

50 "(a) ~~Amount Tax Base. – The rate of the use tax imposed by this Article is applied to the~~  
51 ~~sum of the three percent (3%) of the sum of the following:~~



(1) ~~The~~ retail value of a motor vehicle for which a certificate of title is ~~issued~~ issued and any fee regulated by G.S. 20-101.1. The tax does not apply to the sales price of a service contract. The sales price of a service contract is subject to the sales tax imposed under Article 5 of this Chapter.

(2) ~~Any fee regulated by G.S. 20-101.1.~~

(a1) Tax Rate. – The tax rate is three percent (3%). The tax is payable as provided in G.S. 105-187.4. The maximum tax is one thousand dollars (\$1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is one thousand five hundred dollars (\$1,500) for each certificate of title issued for a recreational vehicle that is not subject to the one thousand dollar (\$1,000) maximum tax. The tax is payable as provided in G.S. 105-187.4."

**SECTION 6.1.(h)** G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. 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. A refund of an excessive or erroneous State sales tax collection allowed under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be levied and imposed under this Article. The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen million three hundred thousand dollars (\$13,300,000).

...."

**SECTION 6.1.(i)** This Part becomes effective October 1, 2014.

## **PART VII. RETAILER-CONTRACTORS**

**SECTION 7.1.(a)** G.S. 105-164.3 reads as rewritten:

### **"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(5) Consumer. – A person who stores, uses, or otherwise consumes in this State tangible personal property, digital property, or a service purchased or received from a retailer or supplier either within or without this State.

...

(33a) Real property contractor. – A person that contracts to perform construction, reconstruction, installation, repair, or any other service with respect to real property and to furnish tangible personal property to be installed or applied to real property in connection with the contract and the labor to install or apply the tangible personal property that becomes part of real property. The term includes a general contractor, a subcontractor, or a builder for purposes of G.S. 105-164.4H.

...

(35) Retailer. – A person engaged in the business of any of the following:

- a. Making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them

1 regardless of whether they are making sales on their own behalf or on  
2 behalf of these dealers, distributors, consignors, supervisors,  
3 employers, or persons, the Secretary may so regard them and may  
4 regard the dealers, distributors, consignors, supervisors, employers,  
5 or persons as "retailers" for the purpose of this Article.

6 b. Delivering, erecting, installing, or applying tangible personal  
7 property for use in this State, ~~regardless of whether the property is~~  
8 ~~permanently affixed to real property or other tangible personal~~  
9 ~~property.~~ State that does not become part of real property pursuant to  
10 the tax imposed under G.S. 105-164.4(a)(12).

11 c. Making a remote sale, if one of the conditions listed in  
12 G.S. 105-164.8(b) is met.

13 (35a) Retailer-contractor. – A person that acts as a retailer when it sells tangible  
14 personal property at retail and as a real property contractor when it performs  
15 real property contracts.

16 "...."

17 **SECTION 7.1.(b)** G.S. 105-164.4(a) is amended by adding a new subdivision to  
18 read:

19 "(13) The general rate of tax applies to the sales price of tangible personal  
20 property sold to a real property contractor for use by the real property  
21 contractor in erecting structures, building on, or otherwise improving,  
22 altering, or repairing real property. These sales are taxed in accordance with  
23 G.S. 105-164.4H."

24 **SECTION 7.1.(c)** Article 5 of Chapter 105 of the General Statutes is amended by  
25 adding a new section to read:

26 "**§ 105-164.4H. Real property contractors.**

27 (a) Applicability. – A real property contractor is the consumer of the tangible personal  
28 property that the real property contractor installs or applies for others and that becomes part of  
29 real property. A retailer engaged in business in the State shall collect tax on the sales price of  
30 the tangible personal property sold at retail to a real property contractor unless a statutory  
31 exemption in G.S. 105-164.13 or G.S. 105-164.13E applies. Where a real property contractor  
32 purchases tangible personal property for storage, use, or consumption in this State and the tax  
33 due is not paid at the time of purchase, the provisions of G.S. 105-164.6 apply except as  
34 provided in subsection (b) of this section.

35 (b) Retailer-Contractor. – This section applies to a retailer-contractor when the  
36 retailer-contractor acts as a real property contractor. A retailer-contractor that purchases  
37 tangible personal property to be installed or affixed to real property may purchase items exempt  
38 from tax under a certificate of exemption pursuant to G.S. 105-164.28 provided the  
39 retailer-contractor also purchases inventory items from the seller for resale. When the tangible  
40 personal property is withdrawn from inventory and installed or affixed to real property, use tax  
41 must be accrued and paid on the retailer-contractor's purchase price of the tangible personal  
42 property. Tangible personal property that the retailer-contractor withdraws from inventory for  
43 use that does not become part of real property is also subject to the tax imposed by this Article.

44 If a retailer-contractor subcontracts any part of the real property contract, tax is payable by  
45 the subcontractor on the subcontractor's purchase of the tangible personal property that is  
46 installed or affixed to real property in fulfilling the contract. The retailer-contractor, the  
47 subcontractor, and the owner of the real property are jointly and severally liable for the tax. The  
48 liability of a retailer-contractor, a subcontractor, or an owner who did not purchase the property  
49 is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid.

50 (c) Erroneous Collection if Separately Stated. – An invoice or other documentation  
51 issued to a consumer at the time of the sale by a real property contractor shall not separately

1 state any amount for tax. Any amount for tax separately stated on an invoice or other  
2 documentation given to a consumer by a real property contractor is an erroneous collection and  
3 must be remitted to the Secretary, and the provisions of G.S. 105-164.11(a)(2) do not apply."

4 **SECTION 7.2.(a)** This act shall not be construed to affect the interpretation of any  
5 statute that is the subject of a State tax audit pending as of the effective date of this act or  
6 litigation that is a direct result of such audit.

7 **SECTION 7.2.(b)** A seller who collected and remitted sales or use tax in  
8 accordance with an interpretation of the law by the Secretary in the form of a rule, bulletin, or  
9 directive published before the effective date of this act is not liable to a purchaser for any  
10 overcollected sales or use tax that was collected in accordance with the rule, bulletin, or  
11 directive.

12 **SECTION 7.3.** This Part becomes effective January 1, 2015, and applies to sales  
13 on or after that date and contracts entered into on or after that date.

## 14 **PART VIII. OTHER SALES TAX CHANGES**

15 **SECTION 8.1.(a)** G.S. 105-164.4(a) reads as rewritten:

16 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
17 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and  
18 three-quarters percent (4.75%).  
19

20 ...  
21 (3) ~~A tax at the~~ The general rate applies to the gross receipts derived from the  
22 rental of an accommodation. These rentals are taxed in accordance with  
23 G.S. 105-164.4F.~~The tax does not apply to (i) a private residence or cottage~~  
24 ~~that is rented for fewer than 15 days in a calendar year; (ii) an~~  
25 ~~accommodation rented to the same person for a period of 90 or more~~  
26 ~~continuous days; or (iii) an accommodation arranged or provided to a person~~  
27 ~~by a school, camp, or similar entity where a tuition or fee is charged to the~~  
28 ~~person for enrollment in the school, camp, or similar entity.~~

29 ~~Gross receipts derived from the rental of an accommodation include the~~  
30 ~~sales price of the rental of the accommodation. The sales price of the rental~~  
31 ~~of an accommodation is determined as if the rental were a rental of tangible~~  
32 ~~personal property. The sales price of the rental of an accommodation~~  
33 ~~marketed by a facilitator includes charges designated as facilitation fees and~~  
34 ~~any other charges necessary to complete the rental.~~

35 ~~A person who provides an accommodation that is offered for rent is~~  
36 ~~considered a retailer under this Article. A facilitator must report to the~~  
37 ~~retailer with whom it has a contract the sales price a consumer pays to the~~  
38 ~~facilitator for an accommodation rental marketed by the facilitator. A retailer~~  
39 ~~must notify a facilitator when an accommodation rental marketed by the~~  
40 ~~facilitator is completed and the facilitator must send the retailer the portion~~  
41 ~~of the sales price the facilitator owes the retailer and the tax due on the sales~~  
42 ~~price no later than 10 days after the end of each calendar month. A facilitator~~  
43 ~~that does not send the retailer the tax due on the sales price is liable for the~~  
44 ~~amount of tax the facilitator fails to send. A facilitator is not liable for tax~~  
45 ~~sent to a retailer but not remitted by the retailer to the Secretary. Tax~~  
46 ~~payments received by a retailer from a facilitator are held in trust by the~~  
47 ~~retailer for remittance to the Secretary. A retailer that receives a tax payment~~  
48 ~~from a facilitator must remit the amount received to the Secretary. A retailer~~  
49 ~~is not liable for tax due but not received from a facilitator. The requirements~~  
50 ~~imposed by this subdivision on a retailer and a facilitator are considered~~  
51 ~~terms of the contract between the retailer and the facilitator.~~

1           A person who, by written contract, agrees to be the rental agent for the  
2 provider of an accommodation is considered a retailer under this Article and  
3 is liable for the tax imposed by this subdivision. The liability of a rental  
4 agent for the tax imposed by this subdivision relieves the provider of the  
5 accommodation from liability. A rental agent includes a real estate broker, as  
6 defined in G.S. 93A-2.

7           The following definitions apply in this subdivision:

- 8           a.     Accommodation. — A hotel room, a motel room, a residence, a  
9           cottage, or a similar lodging facility for occupancy by an individual.  
10          b.     Facilitator. — A person who is not a rental agent and who contracts  
11           with a provider of an accommodation to market the accommodation  
12           and to accept payment from the consumer for the accommodation.

13           ...."

14           **SECTION 8.1.(b)** Article 5 of Chapter 105 of the General Statutes is amended by  
15 adding a new section to read:

16           "**§ 105-164.4F. Accommodation rentals.**

17           (a)     Definition. – The following definitions apply in this section:

- 18           (1)     Accommodation. – A hotel room, a motel room, a residence, a cottage, or a  
19           similar lodging facility for occupancy by an individual.  
20           (2)     Facilitator. – A person who is not a rental agent and who contracts with a  
21           provider of an accommodation to market the accommodation and to accept  
22           payment from the consumer for the accommodation.  
23           (3)     Rental agent. – The term includes a real estate broker, as defined in  
24           G.S. 93A-2.

25           (b)     Tax. – The gross receipts derived from the rental of an accommodation are taxed at  
26           the general rate set in G.S. 105-164.4. Gross receipts derived from the rental of an  
27           accommodation include the sales price of the rental of the accommodation. The sales price of  
28           the rental of an accommodation is determined as if the rental were a rental of tangible personal  
29           property. The sales price of the rental of an accommodation marketed by a facilitator includes  
30           charges designated as facilitation fees and any other charges necessary to complete the rental.

31           (c)     Facilitator Transactions. – A facilitator must report to the retailer with whom it has a  
32           contract the sales price a consumer pays to the facilitator for an accommodation rental  
33           marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental  
34           marketed by the facilitator is completed, and the facilitator must send the retailer the portion of  
35           the sales price the facilitator owes the retailer and the tax due on the sales price no later than 10  
36           days after the end of each calendar month. A facilitator that does not send the retailer the tax  
37           due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is  
38           not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax  
39           payments received by a retailer from a facilitator are held in trust by the retailer for remittance  
40           to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount  
41           received to the Secretary. A retailer is not liable for tax due but not received from a facilitator.  
42           The requirements imposed by this section on a retailer and a facilitator are considered terms of  
43           the contract between the retailer and the facilitator.

44           (d)     Rental Agent. – A person who, by written contract, agrees to be the rental agent for  
45           the provider of an accommodation is considered a retailer under this Article and is liable for the  
46           tax imposed by this section. The liability of a rental agent for the tax imposed by this section  
47           relieves the provider of the accommodation from liability.

48           (e)     Exemptions. – The tax imposed by this section does not apply to the following:

- 49           (1)     A private residence, cottage, or similar accommodation that is rented for  
50           fewer than 15 days in a calendar year other than a private residence, cottage,  
51           or similar accommodation listed with a real estate broker or agent.

- 1           (2)    An accommodation supplied to the same person for a period of 90 or more  
2                continuous days.  
3           (3)    An accommodation arranged or provided to a person by a school, camp, or  
4                similar entity where a tuition or fee is charged to the person for enrollment in  
5                the school, camp, or similar entity."

6           **SECTION 8.1.(c)** A retailer is not liable for an overcollection or undercollection of  
7 sales tax or occupancy tax if the retailer has made a good-faith effort to comply with the law  
8 and collect the proper amount of tax and has, due to the change under this section,  
9 overcollected or undercollected the amount of sales tax or occupancy tax that is due. This  
10 subsection applies only to the period beginning June 14, 2012, and ending July 1, 2014.

11           **SECTION 8.1.(d)** This section becomes effective June 1, 2014, and applies to  
12 gross receipts derived from the rental of an accommodation that a person occupies or has the  
13 right to occupy on or after that date.

14           **SECTION 8.2.(a)** G.S. 105-164.14(b) and G.S. 105-164.14(c) read as rewritten:

15           "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual  
16 refund of sales and use taxes paid by it under this Article on direct purchases of tangible  
17 personal property and ~~services, other than electricity, telecommunications service, and ancillary~~  
18 ~~service, services~~ for use in carrying on the work of the nonprofit entity. Sales and use tax  
19 liability indirectly incurred by a nonprofit entity through reimbursement to an authorized  
20 person of the entity for the purchase of tangible personal property and ~~services, other than~~  
21 ~~electricity, telecommunications service, and ancillary service, services~~ for use in carrying on  
22 the work of the nonprofit entity is considered a direct purchase by the entity. Sales and use tax  
23 liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and  
24 equipment that become a part of or annexed to any building or structure that is owned or leased  
25 by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity  
26 for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct  
27 purchases by the nonprofit entity. The refund allowed under this subsection does not apply to  
28 purchases of electricity, telecommunications service, ancillary service, piped natural gas, video  
29 programming, or a prepaid meal plan. A request for a refund must be in writing and must  
30 include any information and documentation required by the Secretary. A request for a refund  
31 for the first six months of a calendar year is due the following October 15; a request for a  
32 refund for the second six months of a calendar year is due the following April 15. The  
33 aggregate annual refund amount allowed an entity under this subsection for a fiscal year may  
34 not exceed thirty-one million seven hundred thousand dollars (\$31,700,000).

35           The refunds allowed under this subsection do not apply to an entity that is owned and  
36 controlled by the United States or to an entity that is owned or controlled by the State and is not  
37 listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual  
38 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying  
39 out its work. The following nonprofit entities are allowed a refund under this subsection:

40           ...

41           (c) Certain Governmental Entities. – A governmental entity listed in this subsection is  
42 allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases  
43 of tangible personal property and ~~services, other than electricity, telecommunications service,~~  
44 ~~and ancillary service, services.~~ Sales and use tax liability indirectly incurred by a governmental  
45 entity on building materials, supplies, fixtures, and equipment that become a part of or annexed  
46 to any building or structure that is owned or leased by the governmental entity and is being  
47 erected, altered, or repaired for use by the governmental entity is considered a sales or use tax  
48 liability incurred on direct purchases by the governmental entity for the purpose of this  
49 subsection. The refund allowed under this subsection does not apply to purchases of electricity,  
50 telecommunications service, ancillary service, piped natural gas, video programming, or a  
51 prepaid meal plan. A request for a refund must be in writing and must include any information

1 and documentation required by the Secretary. A request for a refund is due within six months  
2 after the end of the governmental entity's fiscal year.

3 This subsection applies only to the following governmental entities:

4 ...."

5 **SECTION 8.2.(b)** G.S. 105-467(b) reads as rewritten:

6 "(b) Exemptions and Refunds. – The State exemptions and exclusions contained in  
7 G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under  
8 this Article. The State refund provisions contained in G.S. 105-164.14 through  
9 G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed  
10 under this Article. The aggregate annual local refund amount allowed an entity under  
11 G.S. 105-164.14(b) for a fiscal year may not exceed thirteen million three hundred thousand  
12 dollars (\$13,300,000).

13 Except as provided in this subsection, a taxing county may not allow an exemption,  
14 exclusion, or refund that is not allowed under the State sales and use tax. A local school  
15 administrative unit and a joint agency created by interlocal agreement among local school  
16 administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related  
17 materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use  
18 taxes paid by it under this Article on direct purchases of tangible personal property and  
19 ~~services, other than electricity, telecommunications service, and ancillary service. services.~~  
20 Sales and use tax liability indirectly incurred by the entity on building materials, supplies,  
21 fixtures, and equipment that become a part of or annexed to any building or structure that is  
22 owned or leased by the entity and is being erected, altered, or repaired for use by the entity is  
23 considered a sales or use tax liability incurred on direct purchases by the entity for the purpose  
24 of this subsection. The refund allowed under this subsection does not apply to purchases of  
25 electricity, telecommunications service, ancillary service, piped natural gas, video  
26 programming, or a prepaid meal plan. A request for a refund is due in the same time and  
27 manner as provided in ~~G.S. 105-164.14.~~ G.S. 105-164.14(c). Refunds applied for more than  
28 three years after the due date are barred."

29 **SECTION 8.2.(c)** This section becomes effective July 1, 2014, and applies to  
30 purchases occurring on or after that date.

31 **SECTION 8.3.(a)** G.S. 105-164.13(30) is repealed.

32 **SECTION 8.3.(b)** G.S. 105-164.13(50) reads as rewritten:

33 "**§ 105-164.13. Retail sales and use tax.**

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

37 ...

38 (50) Fifty percent (50%) of the sales price of tangible personal property sold  
39 through a coin-operated vending machine, other than ~~tobacco~~ tobacco and  
40 newspapers.

41 ...."

42 **SECTION 8.3.(c)** This section becomes effective October 1, 2014, and applies to  
43 sales made on or after that date.

44 **SECTION 8.4.(a)** G.S. 105-164.13 is amended by adding a new subdivision to  
45 read:

46 "**§ 105-164.13. Retail sales and use tax.**

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

50 ...

1           (63) Fifty percent (50%) of the sales prices of a modular home or a manufactured  
2           home, including all accessories attached when delivered to the purchaser."

3           **SECTION 8.4.(b)** This section becomes effective July 1, 2014, and applies to sales  
4 made on or after that date.

## 6 **PART IX. EXCISE TAX CHANGES**

7           **SECTION 9.1.(a)** G.S. 105-113.13(b) reads as rewritten:

8           "(b) The Secretary may require a distributor to furnish a bond in an amount that  
9 adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A  
10 bond ~~shall be~~ must be conditioned on compliance with this Part, ~~shall be~~ payable to the State,  
11 and ~~shall be~~ in the form required by the Secretary. The Secretary ~~shall~~ must set the bond  
12 amount based on the anticipated tax liability of the distributor. The Secretary ~~shall~~ should  
13 periodically review the sufficiency of bonds required of the distributor and ~~shall~~ increase the  
14 required bond amount of a required bond if the bond if the amount no longer covers the  
15 anticipated tax liability of the distributor. The Secretary shall distributor and decrease the  
16 amount of a required bond if the Secretary finds that a lower bond amount will protect the State  
17 adequately from loss. For

18           For purposes of this section, a bond may also include an irrevocable letter of credit. a  
19 distributor may substitute an irrevocable letter of credit for the secured bond required by this  
20 section. The letter of credit must be issued by a commercial bank acceptable to the Secretary  
21 and available to the State as a beneficiary. The letter of credit must be in a form acceptable to  
22 the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in  
23 this section."

24           **SECTION 9.1.(b)** G.S. 105-113.38 reads as rewritten:

### 25 **"§ 105-113.38. Bond or irrevocable letter of credit.**

26           The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an  
27 amount that adequately protects the State from loss if the dealer fails to pay taxes due under  
28 this Part. A bond ~~shall~~ must be conditioned on compliance with this Part, ~~shall be~~ payable to  
29 the State, and ~~shall be~~ in the form required by the Secretary. The Secretary ~~shall~~ proportion a  
30 bond amount must be proportionate to the anticipated tax liability of the wholesale dealer or  
31 retail dealer. The Secretary ~~shall~~ should periodically review the sufficiency of bonds required  
32 of dealers, and ~~shall~~ increase the amount of a required bond when the amount of the bond  
33 furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer.  
34 ~~The Secretary shall dealer and~~ decrease the amount of a required bond when the Secretary  
35 determines that a smaller bond amount will adequately protect the State from loss. For

36           For purposes of this section, a bond may also include an irrevocable letter of credit. a  
37 wholesale dealer or a retail dealer may substitute an irrevocable letter of credit for the secured  
38 bond required by this section. The letter of credit must be issued by a commercial bank  
39 acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must  
40 be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in  
41 the amounts stipulated in this section."

42           **SECTION 9.1.(c)** G.S. 105-113.86 reads as rewritten:

### 43 **"§ 105-113.86. Bonds. Bond or irrevocable letter of credit.**

44           (a) Wholesalers and Importers. – A wholesaler or importer ~~shall furnish~~ must file with  
45 the Secretary a bond in an amount of not less than five thousand dollars (\$5,000) nor more than  
46 fifty thousand dollars (\$50,000). (\$5,000). The amount of the bond must be proportionate to the  
47 anticipated tax liability of the wholesaler or importer. The Secretary should periodically review  
48 the sufficiency of the bonds required under this section. The Secretary may increase the  
49 proportionate amount required, not to exceed fifty thousand dollars (\$50,000), if the bond  
50 furnished no longer covers the taxpayer's anticipated tax liability. The Secretary may decrease  
51 the proportionate amount required when the Secretary determines that a smaller bond amount

1 will adequately protect the State from loss. The bond shall~~must~~ be conditioned on compliance  
2 with this Article, shall be payable to the State, shall be in a form acceptable to the Secretary,  
3 and shall be secured by a corporate surety or by a pledge of obligations of the federal  
4 government, the State, or a political subdivision of the State.~~surety. The Secretary shall~~  
5 proportion the bond amount to the anticipated tax liability of the wholesaler or importer. The  
6 Secretary shall periodically review the sufficiency of bonds furnished by wholesalers and  
7 importers, and shall increase the amount of a bond required of a wholesaler or importer when  
8 the amount of the bond furnished no longer covers the wholesaler's or importer's anticipated tax  
9 liability.

10 ...

11 (c) Letter of Credit. – For purposes of this section, a wholesaler or importer or a  
12 nonresident vendor may substitute an irrevocable letter of credit for the secured bond required  
13 by this section. The letter of credit must be issued by a commercial bank acceptable to the  
14 Secretary and available to the State as a beneficiary. The letter of credit must be in a form  
15 acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts  
16 stipulated in this section."

17 **SECTION 9.2.** G.S. 105-113.39(b) reads as rewritten:

18 "(b) Refund. – A wholesale dealer or retail dealer who is primarily liable under  
19 G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or  
20 otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco  
21 products to the manufacturer and apply to the Secretary for refund of the tax. The application  
22 shall be in the form prescribed by the Secretary and shall be accompanied by a written  
23 certificate signed under penalty of perjury or an affidavit from the manufacturer listing the  
24 tobacco products returned to the manufacturer by the applicant. The Secretary shall refund the  
25 tax paid, less the discount allowed, on the listed products."

26 **SECTION 9.3.** G.S. 105-259(b) is amended by adding a new subdivision to read:

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

33 ...

34 (40a) To furnish a data clearinghouse the information required to be released in  
35 accordance with the State's agreement under the December 2012 Term Sheet  
36 Settlement, as finalized by the State in the NPM Adjustment Settlement  
37 Agreement, concerning annual tobacco product sales by a nonparticipating  
38 manufacturer. The following definitions apply in this subdivision:

39 a. Data clearinghouse. – Defined in the Term Sheet Settlement and in  
40 the NPM Adjustment Settlement Agreement.

41 b. Master Settlement Agreement. – Defined in G.S. 66-290.

42 c. Nonparticipating manufacturer. – Defined in G.S. 66-292.

43 d. NPM Adjustment Settlement Agreement. – The final executed  
44 settlement document resulting from the 2012 Term Sheet Settlement.

45 e. Participating manufacturer. – Defined in G.S. 66-292.

46 f. Term Sheet Settlement. – The settlement agreement entered into in  
47 December 2012 by the State and certain participating manufacturers  
48 under the Master Settlement Agreement.

49 ...

50 (46) To furnish to a person who provides the State with a bond or irrevocable  
51 letter of credit on behalf of a taxpayer the information necessary for the



1 Department to collect on the bond or letter of credit in the case of  
2 noncompliance with the tax laws by the taxpayer covered by the bond or  
3 letter of credit."

4 **SECTION 9.4.** G.S. 105-260.1 reads as rewritten:

5 **"§ 105-260.1. Delegation of authority to hold hearings.**

6 The Secretary of Revenue may delegate to a Deputy or Assistant Secretary of Revenue the  
7 authority to hold ~~any~~ a hearing required or allowed under this Chapter."

8 **SECTION 9.5.(a)** The heading to Article 36B of Chapter 105 of the General  
9 Statutes reads as rewritten:

10 "Article 36B.

11 Tax on ~~Carriers Using Fuel Purchased Outside State.~~ Motor Carriers."

12 **SECTION 9.5.(b)** G.S. 105-449.37 reads as rewritten:

13 **"§ 105-449.37. Definitions; tax ~~liability.~~ liability; application.**

14 (a) Definitions. – The following definitions apply in this Article:

15 (1) International Fuel Tax Agreement. – The Articles of Agreement adopted by  
16 the International Fuel Tax Association, Inc., as amended as of ~~June 1,~~  
17 2010. July 1, 2013.

18 (2) Motor carrier. – A person who operates or causes to be operated on any  
19 highway in this State a motor vehicle that is a qualified motor vehicle. The  
20 term does not include the United States, a state, or a political subdivision of  
21 a state.

22 (3) Motor vehicle. – Defined in G.S. 20-4.01.

23 (4) Operations. – The movement of a qualified motor vehicle by a motor carrier,  
24 whether loaded or empty and whether or not operated for compensation.

25 (5) Person. – Defined in G.S. 105-228.90.

26 (6) Qualified motor vehicle. – Defined in the International Fuel Tax Agreement.

27 (7) Secretary. – Defined in G.S. 105-228.90.

28 (b) Liability. – A motor carrier who operates on one or more days of a reporting period  
29 is liable for the tax imposed by this Article for that reporting period and is entitled to the credits  
30 allowed for that reporting period.

31 (c) Application. – A motor carrier who operates a qualified motor vehicle in this State  
32 must register the vehicle as provided in this Article and obtain the appropriate license and  
33 decals for the vehicle. The Article applies to both an interstate motor carrier subject to the  
34 International Fuel Tax Agreement and to an intrastate motor carrier."

35 **SECTION 9.5.(c)** G.S. 105-449.47(a) reads as rewritten:

36 "(a) Requirement. – A motor carrier ~~that is subject to the International Fuel Tax~~  
37 ~~Agreement~~ may not operate or cause to be operated in this State a qualified motor vehicle  
38 unless both the motor carrier and at least one qualified motor vehicle are registered as provided  
39 in this subsection. This subsection applies to a motor carrier that operates a recreational vehicle  
40 that is considered a qualified motor vehicle. A motor carrier that is subject to the International  
41 Fuel Tax Agreement must register with the motor carrier's base state jurisdiction. A motor  
42 carrier that is not subject to the International Fuel Tax Agreement ~~may not operate or cause to~~  
43 ~~be operated in this State a qualified motor vehicle unless both the motor carrier and at least one~~  
44 ~~qualified motor vehicle are registered~~ must register with the Secretary for purposes of the tax  
45 imposed by this Article. ~~This subsection applies to a motor carrier that operates a recreational~~  
46 ~~vehicle that is considered a qualified motor vehicle."~~

47 **SECTION 9.6.** G.S. 105-449.61(a) reads as rewritten:

48 "(a) No Local Tax. – A county or city may not impose a tax on the sale, distribution, or  
49 use of motor ~~fuel.~~ fuel, except motor fuel for which a refund of the per gallon excise tax is  
50 allowed under G.S. 105-449.105A or G.S. 105-449.107."

51 **SECTION 9.7.(a)** G.S. 105-449.81 reads as rewritten:

1 **"§ 105-449.81. Excise tax on motor fuel.**

2 An excise tax at the motor fuel rate is imposed on motor fuel that is:

3 ...

4 (3b) Fuel grade ethanol or biodiesel fuel if the fuel that meets any meets at least  
5 one of the following descriptions:

- 6 a. Is produced in this State and is removed from the storage facility at  
7 the production location.  
8 b. Is imported to this State outside the terminal transfer system.  
9 c. Repealed by Session Laws 2009-445, s. 34(a), effective January 1,  
10 2010.

11 ...."

12 **SECTION 9.7.(b)** G.S. 105-449.83A reads as rewritten:

13 **"§ 105-449.83A. Liability for tax on fuel grade ~~ethanol~~ ethanol and biodiesel.**

14 The excise tax imposed by G.S. 105-449.81(3b) on fuel grade ethanol is payable by the  
15 refiner or fuel alcohol provider. The excise tax imposed by G.S. 105-449.81(3b) on biodiesel is  
16 payable by the refiner or the biodiesel provider."

17 **SECTION 9.7.(c)** This section becomes effective October 1, 2014.

18 **SECTION 9.8.(a)** G.S. 105-449.52 reads as rewritten:

19 **"§ 105-449.52. Civil penalties applicable to motor carriers.**

20 (a) Penalty. – A motor carrier who does any of the ~~following acts listed in this~~  
21 subsection is subject to a civil ~~penalty~~ penalty. The Secretary may reduce or waive the penalty  
22 as provided under G.S. 105-449.119.

23 (1) Operates in this State or causes to be operated in this State a qualified motor  
24 vehicle that either fails to carry the registration card required by this Article  
25 or fails to display a decal in accordance with this Article. The amount of the  
26 penalty is one hundred dollars (\$100.00).

27 (2) Is unable to account for a decal the Secretary issues the motor carrier, as  
28 required by G.S. 105-449.47. The amount of the penalty is one hundred  
29 dollars (\$100.00) for each decal for which the carrier is unable to account.

30 (3) Displays a decal on a qualified motor vehicle operated by a motor carrier  
31 that was not issued to the carrier by the Secretary under G.S. 105-449.47.  
32 The amount of the penalty is one thousand dollars (\$1,000) for each decal  
33 unlawfully obtained. Both the licensed motor carrier to whom the Secretary  
34 issued the decal and the motor carrier displaying the unlawfully obtained  
35 decal are jointly and severally liable for the penalty under this subdivision.

36 (a1) Payment. – A penalty imposed under this section is payable to the agency that  
37 assessed the penalty. When a qualified motor vehicle is found to be operating without a  
38 registration card or a decal or with a decal the Secretary did not issue for the vehicle, the  
39 qualified motor vehicle may not be driven for a purpose other than to park it until the penalty  
40 imposed under this section is paid unless the officer that imposes the penalty determines that  
41 operating it will not jeopardize collection of the penalty.

42 (b) Review. — ~~The procedure set out in G.S. 105-449.119 for reviewing a penalty~~  
43 ~~imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under this~~  
44 ~~section."~~

45 **SECTION 9.8.(b)** G.S. 105-449.119 reads as rewritten:

46 **"§ 105-449.119. Review of civil penalty assessment.**

47 A person who denies liability for a penalty imposed under this Part ~~must pay the penalty~~  
48 ~~and file a request for a Departmental review of the penalty. The request must be filed within the~~  
49 ~~time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment.~~  
50 may request the Secretary to waive the penalty. The procedures in Article 9 of this Chapter for  
51 review of a proposed assessment apply to the review of the penalty. The date the penalty was

1 imposed is considered the date the notice of proposed assessment was delivered to the  
2 taxpayer. The Secretary may reduce or waive a penalty as provided in Article 9 of this Chapter."

3 **SECTION 9.9.(a)** G.S. 105-449.115(b) reads as rewritten:

4 "(b) Content. – A shipping document ~~issued by~~ is a permanent record that must contain  
5 the following information and any other information required by the Secretary:

6 (1) Identification, including address, of the terminal or bulk plant from which  
7 the motor fuel was received.

8 (1a) The type of motor fuel loaded.

9 (2) The date the motor fuel was loaded.

10 (3) The gross gallons loaded if the motor fuel is loaded onto a transport truck,  
11 and the gross pounds loaded if the motor fuel is loaded onto a railroad tank  
12 car.

13 (3a) The motor fuel transporter for the motor fuel.

14 (4) The destination state of the motor fuel, as represented by the purchaser of the  
15 motor fuel or the purchaser's agent.

16 (5) If the document is issued by a refiner or a terminal operator, the document  
17 must be machine printed. If the motor fuel is loaded onto a transport truck,  
18 the document must contain the following information:

19 a. The net gallons loaded.

20 b. A tax responsibility statement indicating the name of the supplier that  
21 is responsible for the tax due on the motor fuel."

22 **SECTION 9.9.(b)** This section becomes effective October 1, 2014.

23 **SECTION 9.10.(a)** G.S. 105-449.106(c) reads as rewritten:

24 "(c) Special Mobile Equipment. – A person who purchases and uses motor fuel for the  
25 off-highway operation of special mobile equipment registered under Chapter 20 of the General  
26 Statutes may receive a quarterly refund, for the excise tax paid during the preceding quarter, at  
27 a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect  
28 during the quarter for which the refund is claimed, less the amount of sales and use tax ~~or~~  
29 ~~privilege tax~~ due on the fuel under this Chapter, as determined in accordance with  
30 G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

31 **SECTION 9.10.(b)** G.S. 105-449.107 reads as rewritten:

32 "(a) Off-Highway. – A person who purchases and uses motor fuel for a purpose other  
33 than to operate a licensed highway vehicle may receive an annual refund for the excise tax the  
34 person paid on fuel used during the preceding calendar year. The amount of refund allowed is  
35 the amount of the flat cents-per-gallon rate in effect during the year for which the refund is  
36 claimed plus the average of the two variable cents-per-gallon rates in effect during that year,  
37 less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An  
38 application for a refund allowed under this section must be made in accordance with this Part.

39 (b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the  
40 vehicles listed below may receive an annual refund for the amount of fuel consumed by the  
41 vehicle:

42 ...

43 The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the  
44 following: the sum of the flat cents-per-gallon rate in effect during the year for which the  
45 refund is claimed and the average of the two variable cents-per-gallon rates in effect during that  
46 year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter.  
47 An application for a refund allowed under this section must be made in accordance with this  
48 Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing,  
49 compacting, or unloading operations, as distinguished from propelling the vehicle, which  
50 amount is considered to be one-third of the amount of fuel consumed by the vehicle.

1 (c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the  
2 amount of State sales and use tax to be deducted under this section from a motor fuel excise tax  
3 refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First  
4 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this  
5 section from a motor fuel excise tax refund. Article 5F of this Chapter determines the amount  
6 of privilege tax to be deducted under this section from a motor fuel excise tax refund. The sales  
7 price and the cost price of motor fuel to be used in determining the amount to deduct is the  
8 average of the wholesale prices used under G.S. 105-449.80 to determine the excise tax rates in  
9 effect for the two six-month periods of the year for which the refund is claimed."

10 **SECTION 9.11.** Except as otherwise provided, this Part is effective when it  
11 becomes law.

## 13 PART X. TAX LAW COMPLIANCE CHANGES

14 **SECTION 10.1.(a)** G.S. 18B-900 reads as rewritten:

### 15 "§ 18B-900. Qualifications for permit.

16 (a) Requirements. – To be eligible to receive and to hold an ABC permit, a person  
17 ~~shall~~must satisfy all of the following requirements:

- 18 (1) Be at least 21 years old, unless the person is a manager of a business selling  
19 only malt beverages and unfortified wine, in which case the person shall be  
20 at least 19 years ~~old~~old.
- 21 (2) Be a resident of North Carolina unless:
  - 22 a. He is an officer, director or stockholder of a corporate applicant or  
23 permittee and is not a manager or otherwise responsible for the  
24 day-to-day operation of the business; or
  - 25 b. He has executed a power of attorney designating a qualified resident  
26 of this State to serve as attorney in fact for the purposes of receiving  
27 service of process and managing the business for which permits are  
28 sought; or
  - 29 c. He is applying for a nonresident malt beverage vendor permit, a  
30 nonresident wine vendor permit, or a vendor representative ~~permit~~permit.
- 32 (3) Not have been convicted of a felony within three years, and, if convicted of a  
33 felony before then, ~~shall have~~has had his citizenship ~~restored~~restored.
- 34 (4) Not have been convicted of an alcoholic beverage offense within two  
35 ~~years~~years.
- 36 (5) Not have been convicted of a misdemeanor controlled substance offense  
37 within two ~~years~~and years.
- 38 (6) Not have had an alcoholic beverage permit revoked within three years,  
39 except where the revocation was based solely on a permittee's failure to pay  
40 the annual registration and inspection fee required in G.S. 18B-903(b1).
- 41 (7) Not have, whether as an individual or as an officer, director, shareholder or  
42 manager of a corporate permittee, an unsatisfied outstanding final judgment  
43 that was entered against him in an action under Article 1A of this Chapter.
- 44 (8) Be current in filing all applicable tax returns to the State and in payment of  
45 all taxes, interest, and penalties that are collectible under G.S. 105-241.22.  
46 This subdivision does not apply to the following ABC permits:
  - 47 a. Special occasion permit under G.S. 18B-1001(8).
  - 48 b. Limited special occasion permit under G.S. 18B-1001(9).
  - 49 c. Special one-time permit under G.S. 18B-1002.
  - 50 d. Salesman permit under G.S. 18B-1111.

1 To avoid undue hardship, however, the Commission may decline to take action under  
2 G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or (5).

3 ...  
4 (f) Procedure to Confirm State Tax Compliance. – Upon request of the Commission,  
5 the Department of Revenue must provide information to the Commission to confirm a person's  
6 compliance with subdivision (a)(8) of this section. If the Department of Revenue notifies the  
7 Commission that a person is not in compliance, then the Commission may not issue or renew  
8 the person's permit until the Commission receives notice from the Department of Revenue that  
9 the person is in compliance. The requirement to pay all taxes, interest, and penalties may be  
10 satisfied by an operative agreement under G.S. 105-237 covering any amounts that are  
11 collectible under G.S. 105-241.22. Chapter 150B of the General Statutes does not apply to a  
12 Commission action on issuance, suspension, or revocation of an ABC permit under subdivision  
13 (a)(8) of this section."

14 **SECTION 10.1.(b)** G.S. 18B-906(a) reads as rewritten:

15 "(a) Act Applies. – An ABC permit is a "license" within the meaning of G.S. 150B-2,  
16 and, except for revocation pursuant to ~~G.S. 18B-904(e)(3)~~, G.S. 18B-904(e)(3) or for a  
17 confirmation pursuant to G.S. 18B-900(a)(8), a Commission action on issuance, suspension, or  
18 revocation of an ABC permit, other than a temporary permit issued under G.S. 18B-905, is a  
19 "contested case" subject to the provisions of Chapter 150B except as provided in this section."

20 **SECTION 10.1.(c)** G.S. 105-259(b) is amended by adding a new subdivision to  
21 read:

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

28 ...  
29 (46) To provide the Alcoholic Beverage Control Commission the information  
30 required under G.S. 18B-900."

31 **SECTION 10.1.(d)** G.S. 105-243.1(e) reads as rewritten:

32 "(e) Use. – The fee is a receipt of the Department and must be applied to the costs of  
33 collecting overdue tax debts. The proceeds of the fee must be credited to a special account  
34 within the Department and may be expended only as provided in this subsection. The proceeds  
35 of the fee may not be used for any purpose that is not directly and primarily related to  
36 collecting overdue tax debts. The Department may apply the proceeds of the fee for the  
37 purposes listed in this subsection. The remaining proceeds of the fee may be spent only  
38 pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain  
39 in the special account until spent for the costs of collecting overdue tax debts. The Department  
40 and the Office of State Budget and Management must account for all expenditures using  
41 accounting procedures that clearly distinguish costs allocable to collecting overdue tax debts  
42 from costs allocable to other purposes and must demonstrate that none of the fee proceeds are  
43 used for any purpose other than collecting overdue tax debts.

44 The Department may apply the fee proceeds for the following purposes:

- 45 (1) To pay contractors for collecting overdue tax debts under subsection (b) of  
46 this section.
- 47 (2) To pay the fee the United States Department of the Treasury charges for  
48 setoff to recover tax owed to North Carolina.
- 49 (3) To pay for taxpayer locator services, not to exceed ~~one hundred fifty~~  
50 ~~thousand dollars~~ (\$150,000) five hundred thousand dollars (\$500,000) a  
51 year.

- 1 (4) To pay for postage or other delivery charges for correspondence directly and  
 2 primarily relating to collecting overdue tax debts, not to exceed five hundred  
 3 thousand dollars (\$500,000) a year.  
 4 (5) To pay for operating expenses for Project Collection Tax and the Taxpayer  
 5 Assistance Call Center.  
 6 (6) To pay for expenses of the Examination and Collection Division directly and  
 7 primarily relating to collecting overdue tax debts."

8 **SECTION 10.1.(e)** Subsections (a), (b), and (c) of Section 10.1 of this act become  
 9 effective May 1, 2015. The remainder of this Part is effective when it becomes law.

10  
 11 **PART XI. PROPERTY TAX CHANGES**

12 **SECTION 11.1.(a)** G.S. 105-333 reads as rewritten:

13 **"§ 105-333. Definitions.**

14 The following definitions apply in this Article unless the context requires a different  
 15 meaning:

- 16 ...  
 17 (9a) Mobile telecommunications company. – A company providing a mobile  
 18 telecommunications service as defined in G.S. 105-164.3.  
 19 ...  
 20 (14) Public service company. – A railroad company, a pipeline company, a gas  
 21 company, an electric power company, an electric membership corporation, a  
 22 telephone company, ~~a telegraph company,~~ a bus line company, an airline  
 23 company, ~~or a motor freight carrier company.~~ company, a mobile  
 24 telecommunications company, or a tower aggregator company. The term  
 25 also includes any company performing a public service that is regulated by  
 26 the United States Department of Energy, the United States Department of  
 27 Transportation, the Federal Communications Commission, the Federal  
 28 Aviation Agency, or the North Carolina Utilities Commission, except that  
 29 the term does not include a water company, ~~providers of mobile~~  
 30 ~~telecommunications service as defined in G.S. 105-164.3,~~ a cable television  
 31 company, or a radio or television broadcasting company.  
 32 ...  
 33 (17a) Tangible personal property of a mobile telecommunications company. – All  
 34 tangible personal property located in this State that is owned by a mobile  
 35 telecommunications company or is leased to and capitalized on the books of  
 36 a mobile telecommunications company in accordance with generally  
 37 accepted accounting principles, including cellular towers, cellular equipment  
 38 shelters, and site improvements at cellular tower locations. The term does  
 39 not include FCC licenses or authorizations or other intangible personal  
 40 property.  
 41 (17b) Tangible personal property of a tower aggregator company. – All tangible  
 42 personal property located in this State that is owned by a tower aggregator  
 43 company or is leased to and capitalized on the books of a tower aggregator  
 44 company in accordance with generally accepted accounting principles,  
 45 including cellular towers, cellular equipment shelters, and site improvements  
 46 at cellular tower locations.  
 47 (18) ~~Telegraph company.~~ – ~~A company engaged in the business of transmitting~~  
 48 ~~telegraph messages to, from, within, or through the State.~~  
 49 (19) Telephone company. – A company engaged in the business of transmitting  
 50 telephone messages and conversations to, from, within, or through this

1 ~~State~~.State, except that the term does not include a mobile  
2 telecommunications company.

3 ...

4 (22) Tower aggregator company. – A company that provides tower infrastructure  
5 for broadcasting and mobile telephony and that leases space on the tower  
6 infrastructure to mobile telecommunications companies."

7 **SECTION 11.1.(b)** G.S. 105-335 reads as rewritten:

8 **"§ 105-335. Appraisal of property of public service companies.**

9 (a) Duty to Appraise. – ~~In accordance with the provisions of subsection (b), below, the~~  
10 ~~The Department of Revenue shall appraise for taxation the true value of each public service~~  
11 ~~company in accordance with subsection (b) of this section except for a public service company~~  
12 ~~listed in this subsection. The Department shall appraise certain specified properties of the~~  
13 ~~following public service companies in accordance with subsection (c) of this section, (other~~  
14 ~~than bus line, motor freight carrier, and airline companies) as a system (both inside and outside~~  
15 ~~this State). Certain specified properties of bus line, motor freight carrier, and airline companies~~  
16 ~~shall be appraised by the Department in accordance with the provisions of subsection (c),~~  
17 ~~below, and all other properties of such companies shall be listed, appraised, and assessed in the~~  
18 ~~manner prescribed by this Subchapter for the properties of taxpayers other than public service~~  
19 ~~companies.companies:~~

20 (1) Bus line.

21 (2) Motor freight carrier.

22 (3) Airline.

23 (4) Mobile telecommunications company.

24 (5) Tower aggregator company.

25 (b) Property of Public Service Companies Other Than Those Noted in Subsection (c). –

26 (1) System Property. – Each year, as of January 1, the Department of Revenue  
27 shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the system  
28 property used by each public service company both inside and outside this  
29 State. Property leased by a public service company shall be included in  
30 appraising the value of its system property if necessary to ascertain the true  
31 value of the company's system property.

32 (2) Nonsystem Personal Property. – Each year as of January 1, the Department  
33 shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public  
34 service company's nonsystem tangible personal property subject to taxation  
35 in this State.

36 (3) Nonsystem Real Property. – In accordance with the county in which the  
37 public service company's nonsystem real property is located and the  
38 schedules set out in G.S. 105-286 and 105-287, the Department of Revenue  
39 shall appraise at its true value ~~(as defined in G.S. 105-283)~~ each public  
40 service company's nonsystem real property subject to taxation in this State.

41 (c) Property of Bus Line, Motor Freight Carrier, ~~and Airline~~ Airline, Mobile  
42 Telecommunications, and Tower Aggregator Companies. –

43 (1) Bus Company Rolling Stock. – Each year as of January 1, the Department  
44 shall appraise at its true value ~~(as defined in G.S. 105-283)~~ the rolling stock  
45 owned or leased by or operated under the control of each bus line ~~company,~~  
46 ~~which bus line company that~~ is domiciled in this State or ~~which that~~ is  
47 regularly engaged in business in this State.

48 (2) Motor Freight Carrier Company Rolling Stock. – Each year as of January 1,  
49 the Department shall appraise at its true value ~~(as defined in G.S. 105-283)~~  
50 the rolling stock owned by a motor freight carrier company or leased by a  
51 motor freight carrier company and operated by its employees ~~which motor~~

- 1 ~~freight carrier company that~~ is domiciled in this State or ~~that~~ is regularly  
 2 engaged in business in this State at a terminal owned or leased by the carrier.  
 3 (3) Flight Equipment. – Each year, as of January 1, the Department shall  
 4 appraise at its true value ~~(as defined in G.S. 105-283)~~ the flight equipment  
 5 owned or leased by or operated under the control of each airline company  
 6 that is domiciled in the State or that is regularly engaged in business at some  
 7 airport in this State.  
 8 (4) Property of Mobile Telecommunications Company. – Each year, as of  
 9 January 1, the Department shall appraise at its true value the tangible  
 10 personal property of a mobile telecommunications company as provided in  
 11 G.S. 105-336(c) and G.S. 105-336(d).  
 12 (5) Property of Tower Aggregator Company. – Each year, as of January 1, the  
 13 Department shall appraise at its true value the tangible personal property of a  
 14 tower aggregator company as provided in G.S. 105-336(d)."

15 **SECTION 11.1.(c)** G.S. 105-336 reads as rewritten:

16 **"§ 105-336. Methods of appraising certain properties of public service companies.**

17 (a) Appraising System Property of Public Service Companies Other Than Those Noted  
 18 in ~~Subsection (b).~~ Subsections (b), (c), and (d) of This Section. – The Department of Revenue  
 19 shall give consideration to the factors listed in this subsection in ~~in~~ determining the true value  
 20 of each public service company as a system, other ~~(other~~ than one covered by subsection (b),  
 21 (c), or (d) of this subsection. ~~below)~~ as a system the Department of Revenue shall give  
 22 consideration to the following: The factors are:

- 23 (1) The market value of the company's capital stock and debt, taking into  
 24 account the influence of any nonsystem property.  
 25 (2) The book value of the company's system property as reflected in the books  
 26 of account kept under the regulations of the appropriate federal or State  
 27 regulatory agency and what it would cost to replace or reproduce the system  
 28 property, less a reasonable allowance for depreciation.  
 29 (3) The gross receipts and operating income of the company.  
 30 (4) Any other factor or information that in the judgment of the Department has  
 31 a bearing on the true value of the company's system property.

32 (b) Appraising Rolling Stock and Flight Equipment. – In determining the true value of  
 33 the rolling stock of bus line and motor freight carrier companies and the flight equipment of  
 34 airline companies, the Department of Revenue shall consider the book value of the property as  
 35 reflected in the books of account kept under the regulations of the appropriate federal or State  
 36 regulatory agency and what it would cost to replace or reproduce the property in its existing  
 37 condition.

38 (c) Appraising Tangible Personal Property of Mobile Telecommunications Companies.  
 39 – In determining the true value of the tangible personal property of a mobile  
 40 telecommunications company (excluding towers), the Department of Revenue shall consider  
 41 the original cost of the property as reflected in the books of account maintained by the company  
 42 in accordance with generally accepted accounting principles. The Department of Revenue may  
 43 also consider what it would cost to replace or reproduce the property. In either case, an  
 44 appropriate deduction shall be made for all forms of depreciation, including physical  
 45 deterioration, functional obsolescence, and external or economic obsolescence.

46 (d) Appraising Tangible Personal Property of Tower Aggregator Companies and  
 47 Certain Property of Mobile Telecommunications Companies. – In determining the true value of  
 48 the tangible personal property of a tower aggregator company (excluding towers), the  
 49 Department of Revenue shall consider the original cost of the property as reflected in the books  
 50 of account maintained by the company in accordance with generally accepted accounting  
 51 principles and may also consider what it would cost to replace or reproduce the property. In



1 determining the true value of a tower of a tower aggregator company or a mobile  
 2 telecommunications company, the Department of Revenue shall consider what it would cost to  
 3 replace or reproduce the tower, based on tower height and type, as determined by a nationally  
 4 recognized cost service commonly utilized by appraisers. For all property, an appropriate  
 5 deduction shall be made for all forms of depreciation, including physical deterioration,  
 6 functional obsolescence, and external or economic obsolescence."

7 **SECTION 11.1.(d)** G.S. 105-337 reads as rewritten:

8 **"§ 105-337. Apportionment of taxable values to this State.**

9 With respect to any public service company operating both inside and outside this State, ~~it~~  
 10 ~~shall be the duty of State, other than a mobile telecommunications company or a tower~~  
 11 ~~aggregator company, the Department of Revenue to shall~~ apportion for taxation in this State a  
 12 fair and reasonable share of the value of the company as a system or its rolling stock or flight  
 13 equipment as appraised under the provisions of G.S. 105-336. Thus, when the Department has  
 14 determined true value in accordance with the provisions of G.S. 105-336(a) or G.S. 105-336(b),  
 15 it shall ascertain the portion of the total value subject to taxation in this State by applying  
 16 property, business, and mileage factors thereto in accordance with the ratio that the company's  
 17 property, business, or mileage in this State bears to its total property, business, or mileage. In  
 18 its discretion, the Department may use one or more of the factors listed in the preceding  
 19 sentence in order to achieve a fair and accurate result in the apportionment of the value of the  
 20 property of any public service company. ~~As used in this section,~~ The following definitions apply  
 21 in this section:

- 22 (1) ~~The term "business factor" means data~~ Business factor. – Data that reflect  
 23 the use of the company's property, such as gross revenue, net income, tons of  
 24 freight carried, revenue ton miles, passenger miles, car miles, ground hours,  
 25 and comparable data.
- 26 (2) ~~The term "mileage factor" means factual~~ Mileage factor. – Factual  
 27 information as to the linear miles of the company's track, wire, lines, pipes,  
 28 routes, and similar operational routes and factual information as to the miles  
 29 traveled by the company's rolling stock.
- 30 (3) ~~The term "property factor" means investment~~ Property factor. – Investment  
 31 in property; it may be either gross or net investment or any other reasonable  
 32 figure reflecting the company's investment in property."

33 **SECTION 11.1.(e)** G.S. 105-338 reads as rewritten:

34 **"§ 105-338. Allocation of appraised valuation of system-public service property among**  
 35 **local taxing units.**

36 (a) State Board's Duty. – For purposes of taxation by local taxing units in this State, the  
 37 Department of Revenue shall allocate the valuations of public service company property among  
 38 the local taxing units in accordance with the provisions of this section.

39 (b) System Valuation of Companies Other Than Those Noted in Subsection (c). –

- 40 ...
- 41 (3) System Property of Other Companies Appraised by the Department of  
 42 Revenue. –  
 43 a. The provisions of this subdivision ~~(b)(3) shall~~ govern the allocation  
 44 of the property of all companies appraised by the Department of  
 45 Revenue except railroad, telephone, bus line, motor freight carrier,  
 46 ~~and—airline companies, companies, mobile telecommunications~~  
 47 companies, and tower aggregator companies.  
 48 b. The appraised valuation of the system property of such a company  
 49 ~~shall be is~~ allocated for taxation to the local taxing units in which the  
 50 company operates in the proportion that the original cost of the  
 51 taxable system property in the local taxing unit on January 1 bears to

1 the original cost of all the taxable system property in this State. If in  
 2 any local taxing unit the company owns system property acquired  
 3 prior to January 1, 1972, for which the original cost cannot be  
 4 definitely ascertained, the company shall make a reasonable estimate  
 5 of the original cost of that property shall be made by the company,  
 6 property, and the Department shall use this estimate shall be used by  
 7 the Department of Revenue for allocation purposes as if it were the  
 8 actual original cost of the property.

9 (c) Certain Property of Bus Line, Motor Freight Carrier, and Airline, and  
 10 Mobile Telecommunications Companies. –

11 (1) The appraised valuation of a bus line company's rolling stock ~~shall be is~~  
 12 allocated for taxation to each local taxing unit according to the ratio of the  
 13 company's scheduled miles during the calendar year preceding January 1 in  
 14 each ~~such~~ unit to the company's total scheduled miles in this State for the  
 15 same period. In no event, however, shall the State Board make an allocation  
 16 to a taxing unit if, when computed, the valuation for that taxing unit amounts  
 17 to less than five hundred dollars (\$500.00).

18 (2) The appraised valuation of the rolling stock (other than locally assigned  
 19 rolling stock) owned or leased by a motor freight carrier company ~~shall be is~~  
 20 allocated for taxation to each local taxing unit in which the company has a  
 21 terminal according to the ratio of the tons of freight handled in the calendar  
 22 year preceding January 1 at the company's terminals within the taxing unit to  
 23 the total tons of freight handled by the company in this State in the same  
 24 period. If a North Carolina interstate motor freight carrier company has no  
 25 terminal outside this State, but has been required to pay ad valorem tax to  
 26 one or more taxing units outside this State, ~~there shall be allowed~~ a reduction  
 27 is allowed in the North Carolina valuation measured by the ratio of the  
 28 rolling stock subject to ad valorem taxation outside the State to all of the  
 29 carrier's rolling stock.

30 (3) The appraised valuation of an airline company's flight equipment ~~shall be is~~  
 31 allocated for taxation to each local taxing unit in which an airport used by  
 32 the company is situated according to the ratio obtained by averaging the  
 33 following two ratios: the ratio of the company's ground hours in the taxing  
 34 unit in the year preceding January 1 to the company's ground hours in the  
 35 State in the same period, and the ratio of the company's gross revenue in the  
 36 taxing unit in the year preceding January 1 to the company's gross revenue in  
 37 the State in the same period.

38 (4) The appraised valuation of the tangible personal property of a mobile  
 39 telecommunications company (excluding towers) that is appraised in  
 40 accordance with the provisions of G.S. 105-336(c) is allocated among the  
 41 local taxing units in which the property of the company is situated on  
 42 January 1 in the proportion that the original cost of the property in the taxing  
 43 unit bears to the original cost of all such property in this State."

44 **SECTION 11.1.(f)** G.S. 105-339 reads as rewritten:

45 **"§ 105-339. Certification of appraised valuations of nonsystem property and locally**  
 46 **assigned rolling stock, tangible personal property of tower aggregator**  
 47 **companies, and certain tangible personal property of mobile**  
 48 **telecommunications companies.**

49 Having determined the appraised valuations of the nonsystem properties of public service  
 50 companies in accordance with subdivisions (b)(2) and (b)(3) of G.S. 105-335 and the appraised  
 51 valuations of locally assigned rolling stock in accordance with subdivision (c)(1) of

1 G.S. 105-335, the appraised valuations of the tangible personal property of tower aggregator  
2 companies in accordance with G.S. 105-336(d) and the appraised valuations of towers of  
3 mobile telecommunications companies in accordance with G.S. 105-336(d), the Department of  
4 Revenue shall assign those appraised valuations to the taxing units in which such properties are  
5 situated by certifying the valuations to the appropriate counties and municipalities. Each local  
6 taxing unit receiving such certified valuations shall assess them at the figures certified and shall  
7 tax the assessed valuations at the rate of tax levied against other property subject to taxation  
8 therein."

9 **SECTION 11.1.(g)** Article 23 of Chapter 105 of the General Statutes is amended  
10 by adding a new section to read:

11 **"§ 105-339A. Certification of appraised valuations of mobile telecommunications**  
12 **companies.**

13 Having determined the appraised valuations of the tangible personal property of mobile  
14 telecommunications companies (excluding towers) in accordance with subdivision (c) of  
15 G.S. 105-335 and having allocated the valuations to the local taxing units in accordance with  
16 subdivision (c)(4) of G.S. 105-338, the Department of Revenue shall assign each local taxing  
17 unit's appraised valuations by certifying the valuations to the appropriate counties and  
18 municipalities. Each local taxing unit receiving these certified valuations shall assess them at  
19 the figures certified and shall tax the assessed valuations at the rate of tax levied against other  
20 property subject to taxation therein."

21 **SECTION 11.1.(h)** This Part is effective for taxes imposed for taxable years  
22 beginning on or after July 1, 2015.

23  
24 **PART XII. PRIVILEGE LICENSE TAX CHANGES**

25 **SECTION 12.1.(a)** G.S. 160A-211(a) is reenacted as amended by Section 58(d) of  
26 S.L. 2013-414.

27 **SECTION 12.1.(b)** This section is effective when this act becomes law.

28 **SECTION 12.2.(a)** G.S. 160A-211 is repealed.

29 **SECTION 12.2.(b)** Article 9 of Chapter 160A is amended by adding a new section  
30 to read:

31 **"§ 160A-211.2. Local business tax.**

32 (a) Levy and Scope. – A city may levy an annual tax on each business operating within  
33 the city. The tax applies to each business location and does not apply to each individual  
34 employed by or affiliated with that business. Except as provided in G.S. 160A-211.1 for  
35 low-level radioactive and hazardous waste facilities, the rate of tax may not exceed one  
36 hundred dollars (\$100.00).

37 (b) Prohibition. – A city may not impose a license, franchise, privilege, or business tax  
38 on a business engaged in any of the activities listed in this subsection. These businesses are  
39 subject to sales tax at the combined general rate for which the city receives a share of the tax  
40 revenue or they are subject to the local sales tax:

41 (1) Supplying piped natural gas.

42 (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

43 (3) Providing video programming taxed under G.S. 105-164.4(a)(6).

44 (4) Providing electricity.

45 (c) Administration. – If a city levies a tax under this section, a business must pay the tax  
46 before it begins to operate within the city. The tax is due by July 1 of each year. The full  
47 amount of the tax applies to a business that begins to operate at any time during the fiscal year.  
48 If a business is discontinued during the fiscal year, the business is not entitled to a refund.

49 (d) Penalties and Collection. – The penalties in G.S. 105-236 apply to this section. A  
50 city may collect a tax due in any manner allowed under this Article.

51 (e) Definitions. – The following definitions apply in this section:

1           (1) Business. – A retailer, wholesale merchant, service provider, manufacturer,  
2 nonprofit other than a 501(c)(3), or franchise, whether it is a sole  
3 proprietorship, partnership, LLC, or corporation; whether it is home-based or  
4 at another location, whether it is full-time, part-time, or seasonal, and  
5 regardless of size.

6           (2) Location. – A uniquely identifiable geographic site or place from which one  
7 or more business units wholly or partly operates on a permanent or  
8 temporary basis."

9           **SECTION 12.2.(c)** G.S. 105-41(h), 105-83(e), 105-88(e), 105-109(e), and  
10 G.S. 106-65.40 are repealed.

11           **SECTION 12.2.(d)** G.S. 105-113.3(a) reads as rewritten:

12           "(a) Scope. – The taxes imposed by this Article shall be collected only once on the same  
13 tobacco product. ~~Except as permitted by Article 2 of this Chapter, a city or county may not levy~~  
14 ~~a privilege license tax on the sale of tobacco products."~~

15           **SECTION 12.2.(e)** G.S. 105-102.3 reads as rewritten:

16           "**§ 105-102.3. Banks.**

17           ~~There~~ An annual privilege tax is imposed upon every bank or banking association,  
18 including each national banking association, that is operating in this State as a commercial  
19 bank, an industrial bank, a savings bank created other than under Chapter 54B or 54C of the  
20 General Statutes or the Home Owners' Loan Act of 1933 (12 U.S.C. §§ 1461-68), a trust  
21 company, or any combination of such facilities or services, and whether ~~such~~ the bank or  
22 banking association, hereinafter ~~to be~~ referred to as a bank or banks, is organized, under the  
23 laws of the United States or the laws of North Carolina, in the corporate form or in some other  
24 form of business ~~organization, an annual privilege tax, organization.~~ organization. A report and the privilege  
25 tax are due by the first day of July of each year on forms provided by the Secretary. The tax  
26 rate is thirty dollars (\$30.00) for each one million dollars (\$1,000,000) or fractional part thereof  
27 of total assets held as provided in this section. The assets upon which the tax is levied ~~shall be~~  
28 are determined by averaging the total assets shown in the four quarterly call reports of  
29 condition (consolidating domestic subsidiaries) for the preceding calendar year as required by  
30 bank regulatory authorities. If a bank has been in operation less than a calendar year, then the  
31 assets upon which the tax is levied ~~shall be~~ are determined by multiplying the average of the  
32 total assets by a fraction, the denominator of which is 365 and the numerator of which is the  
33 number of days of operation. If a bank operates an international banking facility, as defined in  
34 G.S. 105-130.5(b)(13), the assets upon which the tax is levied ~~shall be~~ are reduced by the  
35 average amount for the taxable year of all assets of the international banking facility which are  
36 employed outside the United States, as computed pursuant to G.S. 105-130.5(b)(13)c. For an  
37 out-of-state bank with one or more branches in this State, or for an in-state bank with one or  
38 more branches outside this State, the assets of the out-of-state bank or of the in-state bank upon  
39 which the tax is levied ~~shall be~~ are reduced by the average amount for the taxable year of all  
40 assets of the out-of-state bank or of the in-state bank which are employed outside this State.  
41 The tax imposed in this section ~~shall be~~ is for the privilege of carrying on the businesses herein  
42 defined on a statewide basis regardless of the number of places or locations of business within  
43 the State. ~~Counties and cities may not levy a license or privilege tax on the businesses taxed~~  
44 ~~under this section, nor on the business of an international banking facility as defined in~~  
45 ~~subdivision (b)(13) of G.S. 105-130.5."~~

46           **SECTION 12.2.(f)** G.S. 160A-194(a) reads as rewritten:

47           "(a) A city may by ordinance, subject to the general law of the State, regulate and license  
48 occupations, businesses, trades, professions, and forms of amusement or entertainment and  
49 prohibit those that may be inimical to the public health, welfare, safety, order, or convenience.  
50 In licensing trades, occupations, and professions, the city may, consistent with the general law  
51 of the State, require applicants for licenses to be examined and charge a reasonable fee therefor.

1 Nothing in this section shall impair the city's power to levy ~~privilege license taxes~~ a tax on  
2 ~~occupations, businesses, trades, professions, and other activities pursuant to~~  
3 ~~G.S. 160A-211.~~ businesses under G.S. 160A-211.2."

4 **SECTION 12.2.(g)** G.S. 160A-215.1(a) reads as rewritten:

5 "(a) As a substitute for and in replacement of the ad valorem tax, which is excluded by  
6 G.S. 105-275(42), a city may levy a gross receipts tax on the gross receipts from the short-term  
7 lease or rental of vehicles at retail to the general public. The tax rate shall not exceed one and  
8 one-half percent (1.5%) of the gross receipts from such short-term leases or rentals. This tax on  
9 gross receipts is in addition to the ~~privilege taxes~~ tax authorized by  
10 ~~G.S. 160A-211.~~ G.S. 160A-211.2."

11 **SECTION 12.2.(h)** This section becomes effective July 1, 2015.

12 **SECTION 12.3.(a)** G.S. 153A-152 is repealed.

13 **SECTION 12.3.(b)** G.S. 153A-49 reads as rewritten:

14 **"§ 153A-49. Code of ordinances.**

15 A county may adopt and issue a code of its ordinances. The code may be reproduced by any  
16 method that gives legible and permanent copies, and may be issued as a securely bound book or  
17 books with periodic separately bound supplements, or as a loose-leaf book maintained by  
18 replacement pages. Supplements or replacement pages should be adopted and issued at least  
19 annually, unless there have been no additions to or modifications of the code during the year.

20 A code may consist of two parts, the "General Ordinances" and the "Technical Ordinances."  
21 The technical ordinances may be published as separate books or pamphlets, and may include  
22 ordinances regarding the construction of buildings, the installation of plumbing and electric  
23 wiring, and the installation of cooling and heating equipment; ordinances regarding the use of  
24 public utilities, buildings, or facilities operated by the county; the zoning ordinance; the  
25 subdivision control ordinance; ~~the privilege license tax ordinance;~~ and other similar ordinances  
26 designated as technical ordinances by the board of commissioners. The board may omit from  
27 the code the budget ordinance, any bond orders, and other designated classes of ordinances of  
28 limited interest or transitory nature, but the code shall clearly describe the classes of ordinances  
29 omitted from it.

30 The board of commissioners may provide that ordinances (i) establishing or amending the  
31 boundaries of county zoning areas or (ii) establishing or amending the boundaries of zoning  
32 districts shall be codified by appropriate entries upon official map books to be retained  
33 permanently in the office of the clerk or some other county office generally accessible to the  
34 public."

35 **SECTION 12.3.(c)** This section becomes effective July 1, 2015.

### 37 **PART XIII. LICENSE PLATE AGENT COMPENSATION**

38 **SECTION 13.1.(a)** Section 2(c) of S.L. 2013-372 reads as rewritten:

39 **"SECTION 2.(c)** Notwithstanding G.S. 20-63(h), as amended by subsection (a) of this  
40 section, the transaction rate of one dollar and six cents (\$1.06) applies to the collection of  
41 property tax by commission contractors for vehicles whose registration renewals expire on or  
42 between September 30, 2013, and ~~February 28, 2014.~~ June 30, 2014."

43 **SECTION 13.1.(b)** The Division of Motor Vehicles must compensate license plate  
44 agents the additional fee for the collection of property taxes as provided in this section. For the  
45 period between March 1, 2014, and the date the Division of Motor Vehicles is able to  
46 implement the additional fee, the Division must calculate the difference in the fee for agents  
47 contracting with the Division authorized by this section and the fee authorized in S.L.  
48 2013-372. The Division must calculate the difference by September 1, 2014. The difference in  
49 the fee must be paid to the agents by reducing future remittances of tax payments to counties  
50 and municipalities under the Tax and Tag Together Program in equal amounts over a three  
51 month period.

**SECTION 13.2.** G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the office of the Division located in Wake, Cumberland, or Mecklenburg Counties and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina, including military installations within this State, with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection ~~will allow or permit~~ allows or permits the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax is considered a separate transaction for which one dollar and twenty-seven cents (\$1.27) compensation shall be paid. The issuance of a limited registration "T" sticker and the collection of property tax are each considered a separate transaction for which compensation at the rate of one dollar and twenty-seven cents (\$1.27) and ~~seventy-one cents (\$0.71)~~, one dollar and six cents (\$1.06) respectively, shall be paid by counties and municipalities as a cost of the combined motor vehicle registration renewal and property tax collection system. The performance at the same time of one or more of the transactions below is considered a single transaction for which one dollar and forty-three cents (\$1.43) compensation shall be paid:

- (1) Issuance of a registration plate, a registration card, a registration sticker, or a certificate of title.
- (2) Issuance of a handicapped placard or handicapped identification card.
- (3) Acceptance of an application for a personalized registration plate.
- (4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
- (5) Cancellation of a title because the vehicle has been junked.
- (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
- (7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
- (8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
- (8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
- (8b), (9) Repealed by Session Laws 2013-372, s. 2(a), effective July 1, 2013.
- (10) Acceptance of a temporary lien filing."

**SECTION 13.3.** G.S. 105-330.5(b) reads as rewritten:

"(b) Distribution and Collection Fees. – The Property Tax Division of the Department of Revenue or a third-party contractor selected by the Property Tax Division must send a copy of the combined tax and registration notice for a registered classified motor vehicle to the motor vehicle owner, as defined in G.S. 20-4.01. The Department must establish a fee equal to the actual cost of preparing, printing, and sending the notice. The Department may receive a fee for

1 each notice generated for a vehicle registered in a county or municipal corporation from the  
2 taxes and fees remitted to the county or municipal corporation in which the vehicle is  
3 registered. The collecting authority is responsible for collecting county and municipal taxes and  
4 fees assessed under this Article and may receive a fee for collecting these taxes and fees. The  
5 amount of this fee for an agent contracting with the Division of Motor Vehicles must equal at  
6 least the applicable amount set under G.S. 20-63(h). The amount of this fee for the Division of  
7 Motor Vehicles is the amount set by the memorandum of understanding entered into under  
8 G.S. 105-330.11 but shall not exceed the amount set under G.S. 20-63. The Property Tax  
9 Division must establish procedures to ensure that tax payments and fees received pursuant to  
10 this Article and Chapter 20 of the General Statutes are properly accounted for and taxes and  
11 fees due other taxing units and the Division of Motor Vehicles are remitted at least once each  
12 month."

13 **SECTION 13.4.** Section 34.17 of S.L. 2013-360 directs the Department of  
14 Transportation to evaluate current contractual models and compensation for the provision of  
15 registration, title, tax collection, and other vehicle service transactions by branch agents  
16 contracting with the Division of Motor Vehicles. The Department of Transportation shall  
17 provide to the Revenue Laws Study Committee any reports, recommendations, and findings  
18 that are a result of the study required under this section. The Department of Transportation shall  
19 also provide to each member of the Revenue Laws Study Committee a copy of any final report  
20 issued as a result of the study. The Revenue Laws Study Committee is directed to examine the  
21 information provided by the Department of Transportation and make an interim report of its  
22 findings and recommendations on the per transaction compensation amounts to the 2015  
23 Regular Session of the 2015 General Assembly and shall make a final report to the 2016  
24 Regular Session of the 2015 General Assembly.

25 **SECTION 13.5.** Section 13.1 of this Part is effective March 1, 2014. Sections 13.2  
26 and 13.3 of this Part become effective July 1, 2014, and apply to collections of property tax on  
27 or after that date. The remainder of this Part is effective when it becomes law.  
28

#### 29 **PART XIV. TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES**

30 **SECTION 14.1.** G.S. 105-114(b)(4) reads as rewritten:

31 "(4) Income year. – Defined in ~~G.S. 105-130.2(4b)~~ G.S. 105-130.2(10)."

32 **SECTION 14.2.** G.S. 105-129.26(a) reads as rewritten:

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

- 36 (1) The facility is located in an area that, at the time the owner began  
37 construction of the facility, was ~~an enterprise tier one area pursuant to~~  
38 ~~G.S. 105-129.3~~ a development tier one area as defined in G.S. 143B-437.08.
- 39 (2) The Secretary of Commerce has certified that the owner will, by the end of  
40 the fourth year after the year the owner begins construction of the recycling  
41 facility, invest at least three hundred million dollars (\$300,000,000) in the  
42 facility and create at least 250 new, full-time jobs at the facility.
- 43 (3) ~~The jobs at the recycling facility meet the wage standard in effect pursuant~~  
44 ~~to G.S. 105-129.4(b) as of the date the owner begins construction of the~~  
45 ~~facility."~~

46 **SECTION 14.3.** G.S. 105-130.5(b) reads as rewritten:

47 "(b) The following deductions from federal taxable income shall be made in determining  
48 State net income:

49 ...

- 50 (4) Losses in the nature of net economic losses sustained by the corporation in  
51 any or all of the 15 preceding years pursuant to the provisions of

1 G.S. 105-130.8. A corporation required to allocate and apportion its net  
2 income under the provisions of G.S. 105-130.4 shall deduct its allocable and  
3 apportionable net economic loss only from total income allocable and  
4 apportionable to this State pursuant to the provisions of G.S. 105-130.8.

5 ...."

6 **SECTION 14.4.(a)** G.S. 105-163.1(3) is repealed.

7 **SECTION 14.4.(b)** G.S. 105-163.5(b) reads as rewritten:

8 "(b) Every employee ~~shall, must,~~ at the time of commencing employment, furnish his or  
9 her employer with a signed withholding ~~exemption—allowance~~ certificate informing the  
10 employer of the ~~exemptions—allowances~~ the employee claims, which ~~in no event shall~~ may not  
11 exceed the amount of ~~exemptions—allowances~~ to which the employee is entitled under the Code.  
12 If the employee fails to file the ~~exemption certificate the employer, in computing amounts to be~~  
13 ~~withheld from the employee's wages, shall allow the employee the exemption accorded a single~~  
14 ~~person with no dependents.~~ allowance certificate, the employer must compute the amount to be  
15 withheld from the employee's wages as if the employee were a single individual with no  
16 allowances."

17 **SECTION 14.5.(a)** G.S. 105-163.2 reads as rewritten:

18 "**§ 105-163.2. Employers must withhold taxes.**

19 (a) Withholding Required. – An employer shall deduct and withhold from the wages of  
20 each employee the State income taxes payable by the employee on the wages. For each payroll  
21 period, the employer shall withhold from the employee's wages an amount that would  
22 approximate the employee's income tax liability under Article 4 of this Chapter if the employer  
23 withheld the same amount from the employee's wages for each similar payroll period in a  
24 calendar year. In calculating an employee's anticipated income tax liability, the employer shall  
25 allow for the ~~exemptions, additions,~~ deductions, and credits to which the employee is entitled  
26 under Article 4 of this Chapter. The amount of State income taxes withheld by an employer is  
27 held in trust for the Secretary.

28 (b) Withholding Tables. – The manner of withholding and the amount to be withheld  
29 shall be determined in accordance with tables and rules adopted by the Secretary. The  
30 withholding ~~exemption—allowed—allowances~~ provided by these tables and rules shall, as nearly  
31 as possible, approximate the ~~exemptions, additions,~~ deductions, and credits to which an  
32 employee would be entitled under Article 4 of this Chapter. The Secretary shall promulgate  
33 tables for computing amounts to be withheld with respect to different rates of wages for  
34 different payroll periods applicable to the various combinations of ~~exemptions—allowances~~ to  
35 which an employee may be entitled and taking into account the appropriate standard deduction.  
36 The tables may provide for the same amount to be withheld within reasonable salary brackets  
37 or ranges so designed as to result in the withholding during a year of approximately the amount  
38 of an employee's indicated income tax liability for that year. The withholding of wages  
39 pursuant to and in accordance with these tables shall be deemed as a matter of law to constitute  
40 compliance with the provisions of subsection (a) of this section, notwithstanding any other  
41 provisions of this Article.

42 ...."

43 **SECTION 14.5.(b)** G.S. 105-163.5 reads as rewritten:

44 "**§ 105-163.5. Employee ~~exemptions—allowable; withholding allowances; certificates.~~**

45 (a) An employee receiving wages is entitled to the ~~exemptions for which the employee~~  
46 ~~qualifies under Article 4 of this Chapter.~~ withholding allowances that would result in the  
47 employer withholding approximately the employee's income tax liability under Article 4 of this  
48 Chapter.

49 (b) Every employee shall, at the time of commencing employment, furnish his or her  
50 employer with a signed withholding ~~exemption—allowance~~ certificate informing the employer of  
51 the ~~exemptions—allowances~~ the employee claims, which ~~in no event shall exceed the amount of~~



1 exemptions to which the employee is entitled under the Code. ~~claims.~~ If the employee fails to  
2 file the ~~allowancexemption~~ certificate the employer, in computing amounts to be withheld  
3 from the employee's wages, shall allow the employee the ~~exemption-allowances~~ accorded a  
4 single person with no dependents.

5 (c) Withholding ~~exemption-allowance~~ certificates shall take effect as of the beginning  
6 of the first payroll period that ends on or after the date on which the certificate is furnished, or  
7 if payment of wages is made without regard to a payroll period, then the certificate shall take  
8 effect as of the beginning of the miscellaneous payroll period for which the first payment of  
9 wages is made on or after the date on which the certificate is furnished.

10 (d) If, on any day during the calendar year, the amount of withholding ~~exemptions~~  
11 ~~allowances~~ to which the employee is entitled is less than the amount of withholding ~~exemptions~~  
12 ~~allowances~~ claimed by the employee on the withholding ~~exemption-allowance~~ certificate then  
13 in effect with respect to the employee, the employee shall, within 10 days thereafter, furnish the  
14 employer with a new withholding ~~exemption-allowance~~ certificate stating the amount of  
15 withholding ~~exemptions-allowances~~ which the employee then claims, which shall in no event  
16 exceed the amount to which the employee is entitled on that day. If, on any day during the  
17 calendar year, the amount of withholding ~~exemptions-allowances~~ to which the employee is  
18 entitled is greater than the amount of withholding ~~exemptions-allowances~~ claimed, the  
19 employee may furnish the employer with a new withholding ~~exemption-allowance~~ certificate  
20 stating the amount of withholding ~~exemptions-allowances~~ which the employee then claims,  
21 which shall in no event ~~not~~ exceed the amount to which the employee is entitled on that day.

22 (e) Withholding ~~exemption-allowance~~ certificates must be in the form and contain the  
23 information required by the Secretary. ~~As far as practicable, the Secretary shall cause the form~~  
24 ~~of the certificates to be substantially similar to federal exemption certificates.~~

25 (f) In addition to any criminal penalty provided by law, if an individual furnishes his or  
26 her employer an ~~exemption-allowance~~ certificate that contains information ~~which that~~ has no  
27 reasonable basis and that results in a lesser amount of tax being withheld under this Article than  
28 would have been withheld if the individual had furnished reasonable information, the  
29 individual is subject to a penalty of fifty percent (50%) of the amount not properly withheld."

30 **SECTION 14.6.** G.S. 105-163.2A(c) reads as rewritten:

31 "(c) Amount. – In the case of a periodic payment, the pension payer must withhold the  
32 amount that would be required to be withheld under this Article if the payment were a payment  
33 of wages by an employer to an employee for the appropriate payroll period. ~~If the recipient of~~  
34 ~~periodic payments fails to file an exemption certificate under G.S. 105-163.5, the pension payer~~  
35 ~~must compute the amount to be withheld as if the recipient were a married individual claiming~~  
36 ~~three withholding exemptions.~~

37 In the case of a nonperiodic distribution, the pension payer must withhold taxes equal to  
38 four percent (4%) of the nonperiodic distribution."

39 **SECTION 14.7.** G.S. 105-164.3 reads as rewritten:

40 **"§ 105-164.3. Definitions.**

41 The following definitions apply in this Article:

42 ...

43 (24) Net taxable sales. – The gross ~~retail~~-sales of the business of a retailer taxed  
44 under this Article after deducting exempt sales and nontaxable sales.

45 ...

46 (35) Retailer. – A person engaged in ~~the~~ business of any of the following:

- 47 a. Making sales at retail, offering to make sales at retail, or soliciting  
48 sales at retail of tangible personal property, digital property, or  
49 services for storage, use, or consumption in this State. When the  
50 Secretary finds it necessary for the efficient administration of this  
51 Article to regard any sales representatives, solicitors, representatives,

1 consignees, peddlers, or truckers as agents of the dealers,  
 2 distributors, consignors, supervisors, employers, or persons under  
 3 whom they operate or from whom they obtain the items sold by them  
 4 regardless of whether they are making sales on their own behalf or on  
 5 behalf of these dealers, distributors, consignors, supervisors,  
 6 employers, or persons, the Secretary may so regard them and may  
 7 regard the dealers, distributors, consignors, supervisors, employers,  
 8 or persons as "retailers" for the purpose of this Article.

9 b. Delivering, erecting, installing, or applying tangible personal  
 10 property for use in this State, regardless of whether the property is  
 11 permanently affixed to real property or other tangible personal  
 12 property.

13 c. Making a remote sale, if one of the conditions listed in  
 14 G.S. 105-164.8(b) is met.

15 ...."

16 **SECTION 14.8.** G.S. 105-164.4 reads as rewritten:

17 **"§ 105-164.4. Tax imposed on retailers.**

18 (a) A privilege tax is imposed on a retailer engaged in business in the State at the  
 19 following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate.  
 20 The general rate of tax is four and three-quarters percent (4.75%).

21 ...

22 (2) The applicable percentage rate applies to the gross receipts derived from the  
 23 lease or rental of tangible personal property by a person who is engaged in  
 24 ~~the~~ business of leasing or renting tangible personal property, or is a retailer  
 25 and leases or rents property of the type sold by the retailer. The applicable  
 26 percentage rate is the rate and the maximum tax, if any, that applies to a sale  
 27 of the property that is leased or rented. A person who leases or rents property  
 28 shall also collect the tax imposed by this section on the separate retail sale of  
 29 the property.

30 ...

31 (4b) A person who sells tangible personal property at a specialty ~~market, market~~  
 32 or other event, other than the person's own household personal property, is  
 33 considered a retailer under this Article. A tax at the general rate of tax is  
 34 levied on the sales price of each article sold by the retailer at the specialty  
 35 ~~market, market or other event~~. The term "specialty market" has the same  
 36 meaning as defined in G.S. 66-250.

37 ...

38 (4d) The general rate applies to the gross receipts derived from the sale or  
 39 recharge of prepaid telephone calling service ~~is taxable at the general rate of~~  
 40 ~~tax, service~~. The tax applies regardless of whether tangible personal  
 41 property, such as a card or a telephone, is transferred. The tax applies to a  
 42 service that is sold in conjunction with prepaid wireless calling service.  
 43 Prepaid telephone calling service is taxable at the point of sale instead of at  
 44 the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid  
 45 telephone calling service taxed under this subdivision is not subject to tax as  
 46 a telecommunications service.

47 ...

48 (b) The tax levied in this section shall be collected from the retailer and paid by him at  
 49 the time and in the manner as hereinafter provided. ~~Provided, however, that any A~~ person  
 50 engaging ~~or continuing~~ in business as a retailer shall pay the tax required on the net taxable  
 51 sales of ~~such the~~ business at the rates specified when proper books are kept showing separately

1 the gross proceeds of taxable and nontaxable sales of ~~tangible personal property items~~ subject  
2 to tax under subsection (a) of this section in such a form as that may be accurately and  
3 conveniently checked by the Secretary or ~~his~~ the Secretary's duly authorized agent. If ~~such the~~  
4 records are not kept ~~separately~~ separately, the tax shall be paid ~~as a retailer~~ on the gross sales of  
5 the business and the exemptions and exclusions provided by this Article ~~shall not be~~ are not  
6 allowed. The tax levied in this section is in addition to all other taxes whether levied in the  
7 form of excise, ~~license or privilege or other taxes~~ license, privilege, or other taxes.

8 (c) Certificate of Registration. – Before a person may engage in business as a retailer or  
9 a wholesale ~~merchant~~ merchant in this State, the person must obtain a certificate of registration  
10 from the Department in accordance with G.S. 105-164.29. A facilitator that is liable for tax  
11 under G.S. 105-164.4F must obtain a certificate of registration from the Department in  
12 accordance with G.S. 105-164.29."

13 **SECTION 14.9.(a)** G.S. 105-164.6(f) reads as rewritten:

14 "(f) Registration. – A person must obtain a certificate of registration in accordance with  
15 G.S. 105-164.29 under any of the following circumstances:

16 (1) Before a the person may engage engages in business in this State selling or  
17 delivering tangible personal property, digital property, or a service for  
18 storage, use, or consumption in this State, ~~the person must obtain a~~  
19 ~~certificate of registration from the Department. State.~~ To obtain a certificate  
20 of registration, a person must register with the Department.

21 (2) If the person is a facilitator that is liable for tax pursuant to G.S. 105-164.4F.

22 ~~The holder of the certificate of registration must pay the tax levied under this Article. A~~  
23 ~~certificate of registration is valid unless it is revoked for failure to comply with the provisions~~  
24 ~~of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of~~  
25 ~~18 months, the retailer files no returns or files returns showing no sales."~~

26 **SECTION 14.9.(b)** G.S. 105-164.29 reads as rewritten:

27 "**§ 105-164.29. Application for certificate of registration by wholesale ~~merchants and~~**  
28 **retailers, merchants, retailers, and facilitators.**

29 (a) Requirement and Application. – Before a person may engage in business as a  
30 retailer or a wholesale ~~merchant~~ merchant or when a facilitator is liable for tax under  
31 G.S. 105-164.4F, the person must obtain a certificate of registration. To obtain a certificate of  
32 registration, a person must register with the Department. A ~~wholesale merchant or retailer~~  
33 person who has more than one business is required to obtain only one certificate of registration  
34 for each legal entity to cover all operations of ~~the each~~ business throughout the State. An  
35 application for registration must be signed as follows:

36 (1) By the owner, if the owner is an individual.

37 (2) By a manager, member, or partner, if the owner is an association, a  
38 partnership, or a limited liability company.

39 (3) By an executive officer or some other person specifically authorized by the  
40 corporation to sign the application, if the owner is a corporation. If the  
41 application is signed by a person authorized to do so by the corporation,  
42 written evidence of the person's authority must be attached to the  
43 application.

44 (b) Issuance. – A certificate of registration is not assignable and is valid only for the  
45 person in whose name it is issued. A copy of the certificate of registration must be displayed at  
46 each place of business.

47 (c) Term. – A certificate of registration is valid unless it is revoked for failure to  
48 comply with the provisions of this Article or becomes void. A certificate issued to a retailer  
49 who makes taxable sales or a facilitator liable for tax under G.S. 105-164.4F becomes void if,  
50 for a period of 18 months, the retailer or facilitator files no returns or files returns showing no  
51 sales.

1 (d) Revocation. – The failure of a wholesale merchant or retailer to comply with this  
2 Article or G.S. 14-401.18 or the failure of a facilitator to comply with this Article is grounds for  
3 revocation of the ~~wholesale merchant's or retailer's person's~~ certificate of registration. Before  
4 the Secretary revokes a ~~wholesale merchant's or retailer's person's~~ certificate of registration, the  
5 Secretary must notify the ~~wholesale merchant or retailer person~~ that the Secretary proposes to  
6 revoke the certificate of registration and that the proposed revocation will become final unless  
7 the ~~wholesale merchant or retailer person~~ objects to the proposed revocation and files a request  
8 for a Departmental review within the time set in G.S. 105-241.11 for requesting a Departmental  
9 review of a proposed assessment. The notice must be sent in accordance with the methods  
10 authorized in G.S. 105-241.20. The procedures in Article 9 of this Chapter for review of a  
11 proposed assessment apply to the review of a proposed revocation.

12 (e) Definition. – For purposes of this section, the term "person" means a wholesale  
13 merchant, a retailer, or a facilitator."

14 **SECTION 14.10.** Article 5 of Chapter 105 of the General Statutes is amended by  
15 adding a new statutory section to read:

16 **"§ 105-164.45. Applicable due date when due date falls on a weekend, holiday, or when**  
17 **the Federal Reserve Bank is closed.**

18 (a) Weekends and Holidays. – When the last day for doing an act required or permitted  
19 by this Article or Subchapter VIII of this Chapter falls on a Saturday, Sunday, or holiday, the  
20 act is considered to be done within the prescribed time limit if it is done on the next business  
21 day.

22 (b) Federal Reserve Bank Closure. – If the Federal Reserve Bank is closed on a due  
23 date that prohibits a person from making a payment by ACH debit or credit as required by this  
24 Article or Subchapter VIII of this Chapter, the payment is timely if made on the next day the  
25 Federal Reserve Bank is open."

26 **SECTION 14.11.** G.S. 105-228.4A(c) reads as rewritten:

27 "(c) Administration. – The definitions in G.S. 58-10-340 apply in this section. A  
28 company subject to this section must file with the Secretary a full and accurate report of the  
29 premiums contracted for or collected on policies or contracts of insurance written by the  
30 company during the preceding calendar year. In the case of a multiyear policy or contract, the  
31 premiums must be prorated among the years covered by the policy or contract. The report is  
32 due on or before ~~March 1.~~ March 15. The taxes imposed by this section are due to the Secretary  
33 with the report."

34 **SECTION 14.12.** G.S. 105-236.1(a) reads as rewritten:

35 "(a) General. – The Secretary may appoint employees of the Unauthorized Substances  
36 Tax Section of the Tax Enforcement Division to serve as revenue law enforcement officers  
37 having the responsibility and subject-matter jurisdiction to enforce the excise tax on  
38 unauthorized substances imposed by Article 2D of this Chapter.

39 The Secretary may appoint up to 11 employees of the Motor Fuels Investigations Section of  
40 the Tax Enforcement Division to serve as revenue law enforcement officers having the  
41 responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels imposed by  
42 Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

43 The Secretary may appoint employees of the Criminal Investigations Section of the Tax  
44 Enforcement Division to serve as revenue law enforcement officers having the responsibility  
45 and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

- 46 (1) The felony and misdemeanor tax violations in G.S. 105-236.
- 47 (2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.
- 48 (3) The following criminal offenses when they involve a tax imposed under  
49 Chapter 105 of the General Statutes:
  - 50 a. G.S. 14-91 (Embezzlement of State Property).
  - 51 b. G.S. 14-92 (Embezzlement of Funds).

- 1 c. G.S. 14-100 (Obtaining Property By False Pretenses).  
2 c1. G.S. 14-113.20 (Identity Theft).  
3 c2. ~~G.S. 14-133.20A~~ G.S. 14-113.20A (Trafficking in Stolen Identities).  
4 d. G.S. 14-119 (Forgery).  
5 e. G.S. 14-120 (Uttering Forged Paper).  
6 f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes).  
7 (g) G.S. 14-118.7 (Possession, transfer, or use of automated sales  
8 suppression device)."

9 **SECTION 14.13.(a)** All amended returns under G.S. 105-116 must be filed within  
10 three years from the due date of the original return. The Department must process amended  
11 returns under G.S. 105-116 within six months of receipt of the return. When the Department  
12 processes an amended franchise tax return under G.S. 105-116 that changes the taxable gross  
13 receipts of electricity derived within a city so that the amount that should have been distributed  
14 to that city under G.S. 105-116.1 for distributions made on or before September 30, 2014, is  
15 greater than or less than the amount actually distributed to that city, the Department of Revenue  
16 must adjust the next quarterly distribution under G.S. 105-164.44K by the applicable amount  
17 and redetermine the franchise tax share for that city based upon the amended return in  
18 accordance with subsection (b) of this section. The Department of Revenue must draw the  
19 funds needed to make an increased distribution from sales and use tax collections under Article  
20 5 of Chapter 105 of the General Statutes.

21 **SECTION 14.13.(b)** The Department of Revenue must determine the quarterly  
22 franchise tax share a city is eligible to receive under G.S. 105-164.44K(b) for each quarter of  
23 the fiscal year on or before September 15 for the fiscal year that began the preceding July 1.  
24 The Department must include all amended franchise tax returns under G.S. 105-116 processed  
25 by the Department by the preceding July 31 in the franchise tax share determination. The  
26 determination made by the Department with respect to the city's franchise tax share for that  
27 fiscal year is final. The distributions are payable as provided in G.S. 105-164.44K.

28 **SECTION 14.13.(c)** All amended returns under G.S. 105-187.41 must be filed  
29 within three years from the due date of the original return. The Department must process  
30 amended returns under G.S. 105-187.41 within six months of receipt of the return. When the  
31 Department processes an amended excise tax return under G.S. 105-187.41 that changes the  
32 amount of the tax attributable to a city so that the amount that should have been distributed to  
33 that city under G.S. 105-187.44 for distributions made on or before September 30, 2014, is  
34 greater than or less than the amount actually distributed to that city, the Department of Revenue  
35 must adjust the next quarterly distribution under G.S. 105-164.44L for the city by the  
36 applicable amount and redetermine the excise tax share for that city based upon the amended  
37 return in accordance with subsection (b) of this section. The Department of Revenue must draw  
38 the funds needed to make an increased distribution from sales and use tax collections under  
39 Article 5 of Chapter 105 of the General Statutes.

40 **SECTION 14.13.(d)** The Department of Revenue must determine the quarterly  
41 excise tax share a city is eligible to receive under G.S. 105-164.44L(b) for each quarter of the  
42 fiscal year on or before September 15 for the fiscal year that began the preceding July 1. The  
43 Department must include all amended excise tax returns under G.S. 105-187.41 processed by  
44 the Department by the preceding July 31 in the excise tax share determination. The  
45 determination made by the Department with respect to the city's franchise tax share for that  
46 fiscal year is final. The distributions are payable as provided in G.S. 105-164.44L.

47 **SECTION 14.13.(e)** G.S. 105-164.44K(c) reads as rewritten:

48 "(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the  
49 amount that remains for distribution after determining each city's franchise tax share under  
50 subsection (b) of this section. Only cities that received a franchise tax share under subsection

1 (b) of this section are eligible to receive an ad valorem share. The prohibitions in  
2 G.S. 105-472(d) on the receipt of funds by a city apply to the distribution under this subsection.

3 A city's proportionate share is the amount of ad valorem taxes it levies on property having a  
4 tax situs in the city compared to the ad valorem taxes levied by all cities on property having a  
5 tax situs in the cities. The ad valorem method set out in G.S. 105-472(b)(2) applies in  
6 determining the share of a city under this subsection based on ad valorem taxes, except that the  
7 amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf  
8 of a taxing district and collected by the city."

9 **SECTION 14.13.(f)** G.S. 105-164.44L(c) reads as rewritten:

10 "(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the  
11 amount that remains for distribution after determining each city's excise tax share under  
12 subsection (b) of this section. Only cities that received a franchise tax share under subsection  
13 (b) of this section are eligible to receive an ad valorem share. The prohibitions in  
14 G.S. 105-472(d) on the receipt of funds by a city apply to the distribution under this subsection.

15 A city's proportionate share is the amount of ad valorem taxes it levies on property having a  
16 tax situs in the city compared to the ad valorem taxes levied by all cities on property having a  
17 tax situs in the cities. The ad valorem method set out in G.S. 105-472(b)(2) applies in  
18 determining the share of a city under this section based on ad valorem taxes, except that the  
19 amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf  
20 of a taxing district and collected by the city."

21 **SECTION 14.13.(g)** This section is effective when it becomes law. Subsections (a)  
22 through (d) of this section expire July 1, 2018.

23 **SECTION 14.14.(a)** G.S. 105-277.3(d1) reads as rewritten:

24 "~~(d1) Exception for Easements on Qualified Conservation Lands Previously Appraised at~~  
25 ~~Use Value.~~ Exception. – Property that is appraised at its present-use value under  
26 G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided  
27 in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) the property is subject to ~~an~~  
28 ~~enforceable~~ a qualifying conservation easement that would qualify for the conservation tax  
29 ~~credit provided in G.S. 105-130.34 and G.S. 105-151.12,~~ that meets the requirements of  
30 G.S. 113A-232, without regard to actual production or income requirements of this section; and  
31 (ii) the taxpayer received no more than seventy-five percent (75%) of the fair market value of  
32 the donated property interest in compensation. Notwithstanding G.S. 105-277.3(b) and (b1),  
33 subsequent transfer of the property does not extinguish its present-use value eligibility as long  
34 as the property remains subject to ~~an enforceable~~ a qualifying conservation easement that  
35 ~~qualifies for the conservation tax credit provided in G.S. 105-130.34 and G.S. 105-151.12.~~  
36 easement. The exception provided in this subsection applies only to that part of the property  
37 that is subject to the easement."

38 **SECTION 14.14.(b)** G.S. 113-77.9(d) reads as rewritten:

39 "(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341,  
40 acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to  
41 this Article. Title to any land acquired pursuant to this Article ~~shall be is~~ vested in the State. A  
42 State agency with management responsibility for land acquired pursuant to this Article may  
43 enter into a management agreement or lease with a county, city, town, or private nonprofit  
44 organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section  
45 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement  
46 or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

47 **SECTION 14.14.(c)** G.S. 113A-231 reads as rewritten:

48 "**§ 113A-231. Program to accomplish conservation purposes.**

49 The Department of Environment and Natural Resources shall develop a nonregulatory  
50 program ~~that uses conservation tax credits as a prominent tool to~~ accomplish conservation  
51 purposes, including the maintenance of ecological systems. As a part of this program, the

1 Department shall exercise its powers to protect real property and interests in real ~~property-~~  
2 ~~property~~ donated for ~~tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the~~  
3 ~~use of other financial incentives; or, conserved through nonregulatory programs. conservation~~  
4 ~~or conserved by other means.~~ The Department shall call upon the Attorney General for legal  
5 assistance in developing and implementing the program."

6 **SECTION 14.14.(d)** G.S. 113A-232 reads as rewritten:

7 "**§ 113A-232. Conservation Grant Fund.**

8 (a) Fund Created. – The Conservation Grant Fund is created within the Department of  
9 Environment and Natural Resources. The Fund shall be administered by the Department. The  
10 purpose of the Fund is to stimulate the use of conservation ~~easements and conservation tax~~  
11 ~~credits, easements,~~ to improve the capacity of private nonprofit land trust organizations to  
12 successfully accomplish conservation projects, to better equip real estate related professionals  
13 to pursue opportunities for conservation, to increase landowner participation in land and water  
14 conservation, and to provide an opportunity to leverage private and other public monies for  
15 conservation easements.

16 (b) Fund Sources. – The Conservation Grant Fund shall consist of any monies  
17 appropriated to it by the General Assembly and any monies received from public or private  
18 sources. Unexpended monies in the Fund that were appropriated from the General Fund by the  
19 General Assembly shall revert at the end of the fiscal year unless the General Assembly  
20 otherwise provides. Unexpended monies in the Fund from other sources shall not revert and  
21 shall remain available for expenditure in accordance with this Article.

22 (c) Property Eligibility. – In order for real property or an interest in real property to be  
23 the subject of a grant under this Article, the real property or interest in real property must meet  
24 all of the following conditions:

- 25 (1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~  
26 value.
- 27 (2) ~~Be reasonably restorable, and must qualify for tax credits under~~  
28 ~~G.S. 105-130.34 or G.S. 105-151.12.~~ restorable.
- 29 (3) Be useful for one or more of the following purposes:
- 30 a. Public beach access or use.
- 31 b. Public access to public waters or trails.
- 32 c. Fish and wildlife conservation.
- 33 d. Forestland or farmland conservation.
- 34 e. Watershed protection.
- 35 f. Conservation of natural areas as that term is defined in  
36 G.S. 113A-164.3(3).
- 37 g. Conservation of predominantly natural parkland.
- 38 (4) Be donated in perpetuity to and accepted by the State, a local government, or  
39 a body that is both organized to receive and administer lands for  
40 conservation purposes and qualified to receive charitable contributions under  
41 G.S. 105-130.9. Land required to be dedicated pursuant to local  
42 governmental regulation or ordinance and dedications made to increase  
43 building density levels permitted under a regulation or ordinance do not  
44 qualify.

45 (c1) Grant Eligibility. – State conservation land management agencies, local government  
46 conservation land management agencies, and private nonprofit land trust organizations are  
47 eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust  
48 organizations must be ~~qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be~~  
49 ~~certified under section 501(c)(3) of the Internal Revenue Code.~~ Code to aid in managing the  
50 land.

1 (d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for  
2 the following purposes:

- 3 (1) The administrative costs of the Department in administering the Fund.
- 4 (2) Conservation grants made in accordance with this Article.
- 5 (3) To establish an endowment account, the interest from which will be used for  
6 a purpose described in G.S. 113A-233(a)."

7 **SECTION 14.14.(e)** G.S. 113A-233 reads as rewritten:

8 "**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

9 (a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to  
10 pay for one or more of the following costs:

- 11 (1) Reimbursement for total or partial transaction costs for a donation of real  
12 property or an interest in real property from an individual or corporation  
13 satisfying either of the following:
  - 14 a. Insufficient financial ability to pay all costs or insufficient taxable  
15 income to allow these costs to be included in the donated value.
  - 16 b. Insufficient tax burdens to allow these costs to be offset by ~~the value~~  
17 ~~of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~  
18 charitable deductions.
- 19 (2) Management support, including initial baseline inventory and planning.
- 20 (3) Monitoring compliance with conservation easements, the related use of  
21 riparian buffers, natural areas, and greenways, and the presence of ecological  
22 integrity.
- 23 (4) Education on conservation, including information materials intended for  
24 landowners and education for staff and volunteers.
- 25 (5) Stewardship of land.
- 26 (6) Transaction costs for recipients, including legal expenses, closing and title  
27 costs, and unusual direct costs, such as overnight travel.
- 28 (7) Administrative costs for short-term growth or for building capacity.

29 (b) Prohibition. – The Fund shall not be used to pay the purchase price of real property  
30 or an interest in real property."

31 **SECTION 14.14.(f)** G.S. 113A-256(g) is repealed.

32 **SECTION 14.15.** Section 21.1(m) of S.L. 2013-360 reads as rewritten:

33 "**SECTION 21.1.(m)** ~~Subsection (e) of this section is effective for taxable years beginning~~  
34 ~~on or after January 1, 2013. The remainder of this~~ This section becomes effective July 1, 2013."

35 **SECTION 14.16.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

36 "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 2, 2013,~~  
37 December 31, 2013, including any provisions enacted as of that date that  
38 become effective either before or after that date."

39 **SECTION 14.16.(b)** This section is effective when it becomes law.  
40 Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code  
41 enacted after January 2, 2013, that increase North Carolina taxable income for the 2013 taxable  
42 year become effective for taxable years beginning on or after January 1, 2014.

43 **SECTION 14.17.** G.S. 105-242(g) reads as rewritten:

44 "(g) Erroneous Lien. – A taxpayer may appeal to the Secretary after a certificate is filed  
45 under subsection (c) of this section if the taxpayer alleges an error in the filing of the lien. The  
46 Secretary shall make a determination of such an appeal as quickly as possible. If the Secretary  
47 finds that the filing of the certificate was erroneous, the Secretary shall ~~issue a certificate of~~  
48 ~~release of the lien as quickly as possible.~~ withdraw the lien as quickly as possible by issuing a  
49 certificate of withdrawal."

50 **SECTION 14.18.** G.S. 105-242.2 reads as rewritten:

51 "**§ 105-242.2. Personal liability when certain taxes not paid.**



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

2 (1) Business entity. – A corporation, a limited liability company, or a  
3 partnership.

4 (2) Responsible person. – Any of the following:

5 a. The president, treasurer, or chief financial officer of a corporation.

6 b. A manager of a limited liability company or a partnership.

7 c. An officer of a corporation, a member or company official of a  
8 limited liability company, or a partner in a partnership who has a  
9 duty to deduct, account for, or pay taxes listed in subsection (b) of  
10 this section.

11 d. A partner who is liable for the debts and obligations of a partnership  
12 under G.S. 59-45 or G.S. 59-403.

13 (b) Responsible Person. – Each responsible person in a business entity is personally and  
14 individually liable for the principal amount of taxes that are owed by the business entity and are  
15 listed in this subsection. If a business entity does not pay the amount it owes after the amount  
16 becomes collectible under G.S. 105-241.22, the Secretary may enforce the responsible person's  
17 liability for the amount by sending the responsible person a notice of proposed assessment in  
18 accordance with G.S. 105-241.9. This subsection applies to the following:

19 (1) All sales and use taxes collected by the business entity upon its taxable  
20 transactions.

21 (2) All sales and use taxes due upon taxable transactions of the business entity  
22 but upon which it failed to collect the tax, but only if the person knew, or in  
23 the exercise of reasonable care should have known, that the tax was not  
24 being collected.

25 (3) All taxes due from the business entity pursuant to the provisions of Articles  
26 36C and 36D of Subchapter V of this Chapter and all taxes payable under  
27 those Articles by it to a supplier for remittance to this State or another state.

28 (4) All income taxes required to be withheld ~~from the wages of employees of~~ by  
29 the business entity.

30 ...."

31 **SECTION 14.19.** G.S. 105-296(m) reads as rewritten:

32 "(m) The assessor shall annually review the transportation corridor official maps and  
33 amendments to them filed with the register of deeds pursuant to Article 2E of Chapter 136 of  
34 the General Statutes. The assessor must indicate on all tax maps maintained by the county or  
35 city that portion of the properties embraced within a transportation corridor and must note any  
36 variance granted for the property for such period as the designation remains in effect. The  
37 assessor must tax the property within a transportation corridor as required under  
38 ~~G.S. 105-277.9~~G.S. 105-277.9 and G.S. 105-277.9A."

39 **SECTION 14.20.(a)** G.S. 105-309(d) reads as rewritten:

40 "(d) Personal property shall be listed to indicate the township and municipality, if any, in  
41 which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by  
42 an abstract form approved by the Department of Revenue. ~~Personal property shall also be listed  
43 to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.~~

44 (1) If the assessor considers it necessary to obtain a complete listing of personal  
45 property, the assessor may require a taxpayer to submit additional  
46 information, inventories, or itemized lists of personal property.

47 (2) At the request of the assessor, the taxpayer shall furnish any information the  
48 taxpayer has with respect to the true value of the personal property the  
49 taxpayer is required to list."

50 **SECTION 14.20.(b)** G.S. 105-320(a)(16) is repealed.

51 **SECTION 14.21.** G.S. 105-315(a)(2) reads as rewritten:

1 **"§ 105-315. ~~Reports~~Report by persons having custody of tangible personal property of**  
2 **others.**

3 (a) As of January 1, every person having custody of taxable tangible personal ~~property~~  
4 ~~property~~ that has been entrusted to ~~him~~ the person by another for storage, sale, renting, or any  
5 other business purpose shall furnish to the appropriate assessor of the county in which the  
6 property is situated ~~the reports required by subdivision (a)(2), below:~~ a report with the  
7 information listed in this subsection. This requirement does not apply to a person having  
8 custody of inventories exempt under G.S. 105-275(32a), 105-275(33), or 105-275(34). As used  
9 in this section, the term "person having custody of taxable tangible personal property" includes  
10 warehouses, cooperative growers' and marketing associations, consignees, factors, commission  
11 merchants, and brokers. The report must include all of the following:

12 (1) Repealed by Session Laws 1987, c. 813, s. 14.

13 (2) ~~For all tangible personal property, except inventories exempt under~~  
14 ~~G.S. 105-275(33) and (34), there shall be furnished to the assessor of the~~  
15 ~~county in which the property is situated a statement showing the~~ The name  
16 of the owner of the property, a description of the property, the quantity of the  
17 property, and the amount of money, if any, advanced against the property by  
18 the person having custody of it. ~~property.~~

19 (3) A description of the property. ~~For purposes of illustration, but not by way of~~  
20 ~~limitation, the term "person having custody of taxable tangible personal~~  
21 ~~property" as used in this subsection (a) shall include warehouses,~~  
22 ~~cooperative growers' and marketing associations, consignees, factors,~~  
23 ~~commission merchants, and brokers.~~

24 (4) The quantity of the property.

25 (5) The amount of money, if any, advanced against the property by the person  
26 having custody of the property.

27 (b) ~~Any~~ A person who fails to make the ~~reports~~report required by ~~subsection (a),~~  
28 ~~above, this section,~~ by January 15 in any year ~~shall be~~ is liable to the counties in which the  
29 property is taxable for a penalty to be measured by any portion of the tax on the property that  
30 has not been paid at the time the action to collect this penalty is brought plus two hundred fifty  
31 dollars (\$250.00). This penalty may be recovered in a civil action in the appropriate division of  
32 the General Court of Justice of the county in which the property is taxable. Upon recovery of  
33 this penalty, the tax on the property ~~shall be~~ is deemed ~~to be~~ paid."

34 **SECTION 14.22.** G.S. 105-537(d) is repealed.

35 **SECTION 14.23.** Section 60(l) of S.L. 2013-414 reads as rewritten:

36 **"SECTION 60.(l)** Section 4 of ~~Chapter 605~~ Chapter 555 of the 1991 ~~Session Laws~~ Session  
37 Laws, as amended by Section 1 of S.L. 1997-447, is repealed."

38 **SECTION 14.24.** Article 3 of Chapter 20 of the General Statutes is amended by  
39 adding a new section to read:

40 **"§ 20-79.1B. Additional limited registration plates.**

41 When the Division or License Plate Agency issues a plate other than a renewal of a plate  
42 for a vehicle whose registration has been expired for at least one year, the customer may, if he  
43 or she disputes the amount of tax owed for the current year under G.S. 105-330.5, opt for a  
44 limited registration plate until the tax issue is resolved with the county. Within 12 months of  
45 the date the limited plate is issued under this section, the customer must pay all taxes due  
46 before the customer is issued a new registration certificate and a year sticker to be applied to  
47 the plate showing it to expire one year after the issuance of the limited registration plate."

48 **SECTION 14.25.** G.S. 105-113.107(a) reads as rewritten:

49 "(a) **Controlled Substances.** – An excise tax is levied on controlled substances possessed,  
50 either actually or constructively, by dealers at the following rates:

- 1 (1) At the rate of forty cents (40¢) for each gram, or fraction thereof, of  
 2 harvested marijuana stems and stalks that have been separated from and are  
 3 not mixed with any other parts of the marijuana plant.  
 4 (1a) At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction  
 5 thereof, of marijuana, other than separated stems and stalks taxed under  
 6 subdivision (1) of this [sub]section, or synthetic cannabinoids.  
 7 (1b) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of  
 8 cocaine.  
 9 (1c) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of any  
 10 low-street-value drug that is sold by weight.  
 11 (2) At the rate of two hundred dollars (\$200.00) for each gram, or fraction  
 12 thereof, of any other controlled substance that is sold by weight.  
 13 (2a) At the rate of fifty dollars (\$50.00) for each 10 dosage units, or fraction  
 14 thereof, of any low-street-value drug that is not sold by weight.  
 15 (3) At the rate of two hundred dollars (\$200.00) for each 10 dosage units, or  
 16 fraction thereof, of any other controlled substance that is not sold by  
 17 weight."  
 18

19 **PART XV. TAX VAPOR PRODUCTS AND PROHIBIT USE OF VAPOR PRODUCTS**  
 20 **IN JAILS**

21 **SECTION 15.1.(a)** G.S. 105-113.3 reads as rewritten:

22 "**§ 105-113.3. Scope of tax; administration.**

23 (a) Scope. – The taxes imposed by this Article shall be collected only once on the same  
 24 tobacco ~~product~~product or vapor product. Except as permitted by Article 2 of this Chapter, a  
 25 city or county may not levy a privilege license tax on the sale of tobacco ~~products~~products or  
 26 vapor products.

27 (b) Administration. – Article 9 of this Chapter applies to this Article."

28 **SECTION 15.1.(b)** G.S. 105-113.4 reads as rewritten:

29 "**§ 105-113.4. Definitions.**

30 The following definitions apply in this Article:

- 31 ...  
 32 (1k) Consumable product. – Any nicotine liquid solution or other material  
 33 containing nicotine that is depleted as a vapor product is used.  
 34 ...  
 35 (4a) Integrated wholesale dealer. – A wholesale dealer who is an affiliate of a  
 36 manufacturer of vapor products or tobacco products, other than cigarettes,  
 37 and is not a retail dealer.  
 38 (5) Licensed distributor. – A distributor licensed under Part 2 of this Article.  
 39 (6) Manufacturer. – A person who produces tobacco products or vapor products  
 40 or a person who contracts with another person to produce tobacco products  
 41 or vapor products and is the exclusive purchaser of the products under the  
 42 contract.  
 43 ...  
 44 (9) Retail dealer. – A person who sells a tobacco product or vapor product to the  
 45 ultimate consumer of the product.  
 46 ...  
 47 (11a) Tobacco product. – A cigarette, a cigar, or any other product that contains  
 48 tobacco and is intended for inhalation or oral use. The term does not include  
 49 a vapor product.  
 50 (12) Repealed by Session Laws 1993, c. 442, s. 1, effective January 1, 1994.

1 (13) Use. – The exercise of any right or power over cigarettes, incident to the  
2 ownership or possession thereof, other than the making of a sale thereof in  
3 the course of engaging in a business of selling cigarettes. The term includes  
4 the keeping or retention of cigarettes for use.

5 (13a) Vapor product. – Any noncombustible product that employs a mechanical  
6 heating element, battery, or electronic circuit regardless of shape or size and  
7 that can be used to produce vapor from nicotine in a solution. The term  
8 includes any vapor cartridge or other container of nicotine in a solution or  
9 other form that is intended to be used with or in an electronic cigarette,  
10 electronic cigar, electronic cigarillo, electronic pipe, or similar product or  
11 device. The term does not include any product regulated by the United States  
12 Food and Drug Administration under Chapter V of the federal Food, Drug,  
13 and Cosmetic Act.

14 (14) Wholesale dealer. – Either of the following:

- 15 a. A person who acquires vapor products or tobacco products other than  
16 cigarettes for sale to another wholesale dealer or to a retail dealer.  
17 b. A manufacturer of vapor products or tobacco products other than  
18 cigarettes."

19 **SECTION 15.1.(c)** G.S. 105-113.4D reads as rewritten:

20 **"§ 105-113.4D. Tax with respect to inventory on effective date of tax increase.**

21 Every person subject to the taxes levied in this Article who, on the effective date of a tax  
22 increase under this Article, has on hand any tobacco products or vapor products must file a  
23 complete inventory of the tobacco products within 20 days after the effective date of the  
24 increase, and must pay an additional tax to the Secretary when filing the inventory. The amount  
25 of tax due is the amount due based on the difference between the former tax rate and the  
26 increased tax rate."

27 **SECTION 15.1.(d)** The title of Part 3 of Subchapter I of Chapter 105 of the  
28 General Statutes reads as rewritten:

29 "Part 3. Tax on Other Tobacco ~~Products~~.Products and Vapor Products."

30 **SECTION 15.1.(e)** G.S. 105-113.35 reads as rewritten:

31 **"§ 105-113.35. Tax on tobacco products other than ~~eigarettes~~,cigarettes and vapor**  
32 **products.**

33 (a) ~~Tax.~~Tax on Tobacco Products. – An excise tax is levied on tobacco products other  
34 than cigarettes at the rate of twelve and eight-tenths percent (12.8%) of the cost price of the  
35 products. ~~This tax does not apply to the following:~~

- 36 (1) ~~A tobacco product sold outside the State.~~  
37 (2) ~~A tobacco product sold to the federal government.~~  
38 (3) ~~A sample tobacco product distributed without charge.~~

39 (a1) Tax on Vapor Products. – An excise tax is levied on vapor products at the rate of  
40 five cents (5¢) per fluid milliliter of consumable product. All invoices for vapor products issued  
41 by manufacturers must state the amount of consumable product in milliliters.

42 (a2) Limitation. – The taxes imposed under this section do not apply to the following:

- 43 (1) A tobacco product or vapor product sold outside the State.  
44 (2) A tobacco product or vapor product sold to the federal government.  
45 (3) A sample tobacco product or vapor product distributed without charge.

46 (b) Primary Liability. – The wholesale dealer or retail dealer who first acquires or  
47 otherwise handles tobacco products or vapor products subject to the tax imposed by this section  
48 is liable for the tax imposed by this section. A wholesale dealer or retail dealer who brings into  
49 this State a tobacco product or vapor product made outside the State is the first person to handle  
50 the tobacco product or vapor product in this State. A wholesale dealer or retail dealer who is the  
51 original consignee of a tobacco product or vapor product that is made outside the State and is

1 shipped into the State is the first person to handle the tobacco product or vapor product in this  
2 State.

3 (c) Secondary Liability. – A retail dealer who acquires non-tax-paid tobacco products  
4 or vapor products subject to the tax imposed by this section from a wholesale dealer is liable  
5 for any tax due on the tobacco ~~products-products~~ or vapor products. A retail dealer who is liable  
6 for tax under this subsection may not deduct a discount from the amount of tax due when  
7 reporting the tax.

8 (d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships  
9 vapor products or tobacco products other than cigarettes to either a wholesale dealer or retail  
10 dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax  
11 imposed by this section on the tobacco ~~products-products~~ or vapor products. Once granted  
12 permission, a manufacturer may choose not to pay the tax until otherwise notified by the  
13 Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must  
14 comply with the requirements set by the Secretary.

15 Permission granted under this subsection to a manufacturer to be relieved of paying the tax  
16 imposed by this section applies to an integrated wholesale dealer with whom the manufacturer  
17 is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with  
18 whom it is an affiliate when the manufacturer applies to the Secretary for permission to be  
19 relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the  
20 manufacturer after the Secretary has given the manufacturer permission to be relieved of  
21 paying the tax.

22 If a person is both a manufacturer of cigarettes and a wholesale dealer of vapor products or  
23 tobacco products other than cigarettes and the person is granted permission under  
24 G.S. 105-113.10 to be relieved of paying the cigarette excise tax, the permission applies to the  
25 tax imposed by this section on vapor products or tobacco products other than cigarettes. A  
26 cigarette manufacturer who becomes a wholesale dealer after receiving permission to be  
27 relieved of the cigarette excise tax must notify the Secretary of the permission received under  
28 G.S. 105-113.10 when applying for a license as a wholesale dealer.

29 (d1) Limitation. – Except as otherwise provided in this Article, integrated wholesale  
30 dealers may not sell, borrow, loan, or exchange non-tax-paid vapor products or non-tax-paid  
31 tobacco products other than cigarettes to, from, or with other integrated wholesale dealers.

32 (e) Repealed by Session Laws 2009-451, s. 27A.5(c), effective September 1, 2009."

33 **SECTION 15.1.(f)** G.S. 105-113.36 reads as rewritten:

34 "**§ 105-113.36. Wholesale dealer and retail dealer must obtain license.**

35 A wholesale dealer shall obtain for each place of business a continuing tobacco or vapor  
36 products license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail  
37 dealer shall obtain for each place of business a continuing tobacco or vapor products license  
38 and shall pay a tax of ten dollars (\$10.00) for the license. A "place of business" is a place where  
39 a wholesale dealer or where a retail dealer makes tobacco or vapor products other than  
40 cigarettes or a wholesale dealer or a retail dealer receives or stores non-tax-paid vapor products  
41 or non-tax-paid tobacco products other than cigarettes."

42 **SECTION 15.1.(g)** G.S. 105-113.37 reads as rewritten:

43 "**§ 105-113.37. Payment of tax.**

44 (a) Monthly Report. – Except for tax on a designated sale under subsection (b), the  
45 taxes levied by this Article are payable when a report is required to be filed. A report is due on  
46 a monthly basis. A monthly report covers sales and other activities occurring in a calendar  
47 month and is due within 20 days after the end of the month covered by the report. A report shall  
48 be filed on a form provided by the Secretary and shall contain the information required by the  
49 Secretary.

50 (b) Designation of Exempt Sale. – A wholesale dealer who sells a tobacco product or  
51 vapor product to a person who has notified the wholesale dealer in writing that the person

1 intends to resell the item in a transaction that is exempt from tax under ~~G.S. 105-113.35(a)(1)~~  
2 ~~or (2)~~ G.S. 105-113.35(a3)(1) or (2) may, when filing a monthly report under subsection (a),  
3 designate the quantity of tobacco products or vapor products sold to the person for resale. A  
4 wholesale dealer shall report a designated sale on a form provided by the Secretary.

5 A wholesale dealer is not required to pay tax on a designated sale when filing a monthly  
6 report. The wholesale dealer shall pay the tax due on all other sales in accordance with this  
7 section. A wholesale dealer or a customer of a wholesale dealer may not delay payment of the  
8 tax due on a tobacco product or vapor product by failing to pay tax on a sale that is not a  
9 designated sale or by overstating the quantity of tobacco products or vapor products that will be  
10 resold in a transaction exempt under ~~G.S. 105-113.35(a)(1) or (2)~~ G.S. 105-113.35(a3)(1) or  
11 (2).

12 A person who does not sell a tobacco product or vapor product in a transaction exempt  
13 under ~~G.S. 105-113.35(a)(1) or (2)~~ G.S. 105-113.35(a3)(1) or (2) after a wholesale dealer has  
14 failed to pay the tax due on the sale of the item to the person in reliance on the person's written  
15 notification of intent is liable for the tax and any penalties and interest due on the designated  
16 sale. If the Secretary determines that a tobacco product or vapor product reported as a  
17 designated sale is not sold as reported, the Secretary shall assess the person who notified the  
18 wholesale dealer of an intention to resell the item in an exempt transaction for the tax due on  
19 the sale and any applicable penalties and interest. A wholesale dealer who does not pay tax on a  
20 tobacco product or vapor product in reliance on a person's written notification of intent to resell  
21 the item in an exempt transaction is not liable for any tax assessed on the item.

22 (c) Repealed by Session Laws 1991 (Regular Session, 1992), c. 955, s. 12.

23 (d) Shipping Report. – Any person who transports other tobacco products or vapor  
24 products upon the public highways, roads, or streets of this State must, upon notice from the  
25 Secretary, file a report in a form prescribed by and containing the information required by the  
26 Secretary."

27 **SECTION 15.1.(h)** G.S. 105-113.39(a) reads as rewritten:

28 "**§ 105-113.39. Discount; refund.**

29 (a) Discount. – A wholesale dealer or a retail dealer who is primarily liable under  
30 G.S. 105-113.35(b) for the excise taxes imposed by this ~~Part, Part~~ on tobacco products, who  
31 files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from  
32 the amount due with the report a discount of two percent (2%). This discount covers expenses  
33 incurred in preparing the records and reports required by this Part and the expense of furnishing  
34 a bond."

35 **SECTION 15.1.(i)** G.S. 105-113.40 reads as rewritten:

36 "**§ 105-113.40. Records of sales, inventories, and purchases to be kept.**

37 Every wholesale dealer and retail dealer shall keep accurate records of the dealer's  
38 purchases, inventories, and sales of tobacco ~~products~~ products or vapor products. These records  
39 shall be open at all times for inspection by the Secretary or an authorized representative of the  
40 Secretary."

41 **SECTION 15.1.(j)** This section becomes effective February 1, 2015.

42 **SECTION 15.2.(a)** G.S. 148-23.1 reads as rewritten:

43 "**§ 148-23.1. Tobacco and vapor products prohibited on State correctional facilities**  
44 **premises.**

45 (a) The General Assembly finds that in order to protect the health, welfare, and comfort  
46 of inmates in the custody of the Division of Adult Correction of the Department of Public  
47 Safety and to reduce the costs of inmate health care, it is necessary to prohibit inmates from  
48 using tobacco and vapor products on the premises of State correctional facilities and to ensure  
49 that employees and visitors do not use tobacco and vapor products on the premises of those  
50 facilities.

1 (b) No person may use tobacco or vapor products on the premises of a State  
2 correctional facility, except for authorized religious purposes. Notwithstanding any other  
3 provision of law, inmates in the custody of the Division of Adult Correction of the Department  
4 of Public Safety and persons facilitating religious observances may use and possess tobacco or  
5 vapor products for religious purposes consistent with the policies of the Division.

6 (b1) Except as provided in subsection (b) of this section, no person may possess tobacco  
7 or vapor products on the premises of a State correctional facility. Notwithstanding the  
8 provisions of this subsection, an employee or visitor may possess tobacco or vapor products  
9 within the confines of a motor vehicle located in a designated parking area of a correctional  
10 facility's premises if the tobacco or vapor product remains in the vehicle and the vehicle is  
11 locked when the employee or visitor has exited the vehicle.

12 (c) The Division of Adult Correction of the Department of Public Safety may adopt  
13 rules to implement the provisions of this section. Inmates in violation of this section are subject  
14 to disciplinary measures to be determined by the Division, including the potential loss of  
15 sentence credits earned prior to that violation. Employees in violation of this section are subject  
16 to disciplinary action by the Division. Visitors in violation of this section are subject to removal  
17 from the facility and loss of visitation privileges.

18 (d) As used in this section, the following terms mean:

19 (1) State correctional facility. – All buildings and grounds of a State correctional  
20 institution operated by the Division of Adult Correction of the Department  
21 of Public Safety.

22 (2) Tobacco products. – Cigars, cigarettes, snuff, loose tobacco, or similar goods  
23 made with any part of the tobacco plant that are prepared or used for  
24 smoking, chewing, dipping, or other personal use.

25 (3) Vapor products. – Noncombustible products that employ a mechanical  
26 heating element, battery, or electronic circuit regardless of shape or size and  
27 that can be used to heat a liquid nicotine solution contained in a vapor  
28 cartridge. The term includes electronic cigarettes, electronic cigars,  
29 electronic cigarillos, and electronic pipes. The term does not include any  
30 product regulated by the United States Food and Drug Administration under  
31 Chapter V of the federal Food, Drug, and Cosmetic Act."

32 **SECTION 15.2.(b)** G.S. 14-258.1 reads as rewritten:

33 **"§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,**  
34 **ammunition or alcoholic beverages to inmates of charitable, mental or penal**  
35 **institutions or local confinement facilities; furnishing tobacco or vapor**  
36 **~~products or products; or furnishing mobile phones to inmates.~~**  
37 ...

38 (c) Any person who knowingly gives or sells any tobacco or vapor product, as defined  
39 in G.S. 148-23.1, to an inmate in the custody of the Division of Adult Correction of the  
40 Department of Public Safety and on the premises of a correctional facility or to an inmate in the  
41 custody of a local confinement facility, or any person who knowingly gives or sells any tobacco  
42 or vapor product to a person who is not an inmate for delivery to an inmate in the custody of  
43 the Division of Adult Correction of the Department of Public Safety and on the premises of a  
44 correctional facility or to an inmate in the custody of a local confinement facility, other than for  
45 authorized religious purposes, is guilty of a Class 1 misdemeanor.

46 ...  
47 (e) Any inmate of a local confinement facility who possesses any tobacco or vapor  
48 product, as defined in G.S. 148-23.1, other than for authorized religious purposes, or who  
49 possesses a mobile telephone or other wireless communications device or a component of one  
50 of those devices, is guilty of a Class 1 misdemeanor."

1           **SECTION 15.2.(c)** Subsection (a) of this section becomes effective July 1, 2014.  
2 Subsection (b) of this section becomes effective December 1, 2014, and applies to offenses  
3 committed on or after that date. The remainder of this section is effective when it becomes law.  
4

5 **PART XVI. EFFECTIVE DATE**

6           **SECTION 16.1.** Except as otherwise provided, this act is effective when it  
7 becomes law.