TAX LAW CHANGES 2024

NCDOR | NORTH CAROLINA DEPARTMENT OF REVENUE

PREFACE

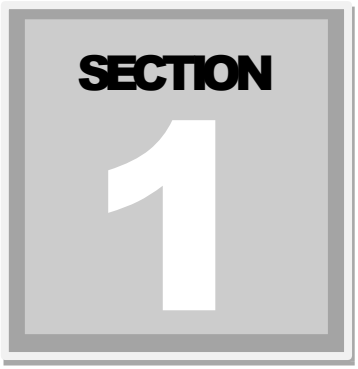
The 2024 Tax Law Changes publication is designed for use by the North Carolina Department of Revenue personnel and is available to others as a resource document. It provides a summary of legislative tax changes made by prior sessions of the General Assembly that take effect for tax year 2024 as well as changes made in 2024 by the General Assembly, regardless of effective date. This document includes changes to the tax law only and does not include other legislation that impacts the Department of Revenue.

For further information on a specific tax law change, refer to the governing legislation. Administrative rules, bulletins, directives, and other instructions issued by the Department, as well as opinions issued by the Attorney General's Office, may provide additional information on the application of tax law changes. I hope you find this information of value as you comply with North Carolina's tax laws.

Anthony Edwards
Assistant Secretary of Revenue
Tax Administration

Table of Contents

SECTION 1 – PERSONAL TAXES



INDIVIDUAL INCOME TAX – ARTICLE 4, PART 2

G.S. 105-153.3 – Definitions: This section was rewritten to add two new definitions to the individual income tax statutes. These definitions are identical to the same definitions found in the corporate income tax statutes and read as follows:

> (7a) Income attributable to the State. – Either of the following:
> a. With respect to a partnership, all items of income, loss, deduction, or credit of the partnership apportioned and allocated to this State pursuant to G.S. 105-130.4.
> b. With respect to an S Corporation, as defined in G.S. 105-131(b)(4).
>
> (7b) Income not attributable to the State. – Either of the following:
> a. With respect to a partnership, all items of income, loss, deduction, or credit of the partnership other than income attributable to the State.
> b. With respect to an S Corporation, as defined in G.S. 105-131(b)(5).

These definitions define terms that were included in the 2023 SALT Workaround update enacted by Session Law 2023-12. For taxable years beginning on or after January 1, 2023, an S Corporation or eligible partnership (collectively, a "PTE") that elects to pay North Carolina income tax at the entity level (a "Taxed PTE") is only required to include each owner's distributive share of the Taxed PTE's income or loss attributable to North Carolina in the Taxed PTE's computation of North Carolina taxable income.

(Effective for taxable years beginning on or after January 1, 2023; HB 228, s. 1.2(a)., S.L. 2024-28.)

G.S. 105-153.8(e) – Joint Returns: This subsection was amended to modernize the language of the statute that governs the filing of a North Carolina income tax return using the "married filing jointly" filing status.

(Effective July 1, 2024; HB 228, s. 1.3, S.L. 2024-28.)

G.S. 105-153.8 – Exception: New subsection (f) was added to this statute to explain an exception to the general rule regarding the filing of joint North Carolina income tax returns by two lawfully married individuals.

As written, subsection (f) provides the following:

“Exception. – If two lawfully married individuals file a joint federal return but only one individual is required to file an income tax return pursuant to subsection (a) of [G.S. 105-153.8], that individual must file the income tax return as either of the following:

(1) Jointly under the provisions of subsection (e) of [G.S.105-153.8] based on the filing status of married, filing jointly/surviving spouse.
(2) Separately based on the filing status of married, filing separately."

(Effective July 1, 2024; HB 228, s. 1.3, S.L. 2024-28.)

G.S. 105-153.11 – Credit for Certain Real Property Donations: This statute, originally enacted as G.S. 105-151.12 and repealed by the 2013 General Assembly, is reenacted and recodified as G.S. 105-153.11. The statute provides an income tax credit to an individual or a pass-through entity (collectively, a “taxpayer”) that makes a qualified donation of real property in North Carolina for a specific qualifying conservation use. Subject to the limitations set forth by the 2024 General Assembly, the credit is equal to twenty-five percent (25%) of the fair market value of the donated property.

Subsection (a) provides the list of specific qualifying conservation uses for which the credit is based.

Subsection (b) defines the term “qualified donation.”

Subsection (c) outlines the application process for which the taxpayer must follow to be eligible for the credit.

Subsection (d) requires the taxpayer claiming the credit to maintain and make available for inspection any information or records required by the Department.

Subsections (e) and (f) provide the aggregate amount of credit allowed to an individual or a pass-through entity in a taxable year.

Subsection (g) makes it clear that a pass-through entity (PTE) that elects to pay North Carolina income tax at the entity level (a “Taxed PTE”) cannot take the credit at the entity level but must pass through to each of its owners the owner’s allocated share of credit.

Subsections (h) through (j) provides certain limitations for claiming the credit. Under subsections (h) and (i), if the credit exceeds the taxpayer’s tax liability for the year reduced by the sum of all other tax credits allowed, the excess is not refunded but may be carried forward for five years. Under subsection (j) a taxpayer is prohibited from receiving a “double benefit” by not allowing the taxpayer that claims the credit from deducting a charitable contribution under G.S. 105-153.5(a)(2)(a) for the value of the donated property for which the credit is based.

Subsection (k) creates an aggregate cap on all credits allowed for donations made during a taxable year to individuals, pass-through entities, and corporations (collectively, “taxpayers”) to $5,000,000, of which $3,250,000 is reserved for credits to taxpayers that made a qualified donation for the specific use of forestland or farmland conservation. This subsection also provides the procedure for which the Department may reopen the application period if allocated funds become available.

Subsection (l) provides the procedures for the Department to follow when the aggregate amount of credits claimed by taxpayers exceed the ceiling provided in subsection (k).

Subsection (m) requires the Department to include specific information about the credit in the economic incentives report required to be published by May 1 of each year pursuant to G.S. 105-256(a)(2a).

(Effective for taxable years beginning on or after January 1, 2025, for donations made on or after January 1, 2025, and expires for taxable years beginning on or after January 1, 2027, for donations made on or after January 1, 2027; SB 355, s. 15(b), S.L. 2024-32.)

G.S. 105-154.1 – Taxation of Partnership as a Taxed Pass-Through Entity: The 2021 General Assembly enacted legislation that created North Carolina's SALT Workaround ("SALT Workaround") for Pass-Through Entities. This legislation allows eligible partnerships to elect to pay North Carolina income tax at the partnership level ("Taxed Partnership"). The eligible partnership must make the election to pay the tax at the partnership level (the "Taxed Partnership Election") on its timely filed tax return.

As part of an update to the SALT Workaround ("SALT Workaround Update"), the 2023 General Assembly revised this statute to expand the list of permissible partners of a partnership allowed to make the Taxed Partnership Election. In addition, the 2023 General Assembly added subsection (a1) to this statute to allow a partnership that could not make the Taxed Partnership Election for tax year 2022 to make the election by filing an amended return on or before October 15, 2023.

Because the SALT Workaround Update did not become law until October 3, 2023, the 2024 General Assembly extended the time for eligible partnerships to make the Taxed Partnership Election for tax year 2022 from October 15, 2023, to July 1, 2024.

(Effective for taxable years beginning on or after January 1, 2022; SB 508, s. 11.3(a)., S.L. 2024-1.)

G.S. 105-155 – Time and Place of Filing Returns; Extensions; Affirmation: Subsection (a) of this statute was rewritten to clarify that a taxpayer can receive an extension of time to file an income tax return under the provisions of G.S. 105-263 without asking the Secretary for the extension.

Under prior law, subsection (a) allowed a taxpayer to ask the Secretary for an extension of time to file an income tax return under the provisions of G.S. 105-263. Because the 2018 General Assembly amended G.S. 105-263 to provide taxpayers who are granted an automatic federal extension with an automatic State extension to file their corresponding North Carolina income tax return, subsection (a) of this statute was amended by the 2024 General Assembly to conform the statute to the other changes made to Article 9 of Chapter 105.

(Effective July 1, 2024; HB 228, s. 1.4(a), S.L. 2024-28.)

INCOME TAX – ESTATES, TRUSTS, AND BENEFICIARIES – ARTICLE 4, PART 3

G.S. 105-160.4 – Tax Credits for Income Taxes Paid to Other States by Estates and Trusts: Subsections (f) and (g) of this statute were repealed.

As part of the legislation that created North Carolina's SALT Workaround ("SALT Workaround") for Pass-Through Entities ("PTEs"), the 2021 General Assembly added subsections (f) and (g) to this statute to prohibit a fiduciary and a beneficiary of an estate or trust who were shareholders of a Taxed S Corporation or who were partners in a Taxed Partnership (collectively, "owners in a Taxed PTE") from claiming a credit for income taxes paid to other states and countries by the estate or trust or by the Taxed PTE to another state or country on income that was taxed to the Taxed PTE.

As part of an update to the SALT Workaround ("SALT Workaround Update"), the 2023 General Assembly rewrote a portion of the SALT Workaround to require Taxed PTEs to only include each owner's share of the Taxed PTE's income or loss attributable to North Carolina in its computation of North Carolina taxable income. Consequently, these subsections are no longer needed.

Note: The corresponding individual income tax credits were repealed by Session Law 2023-12.

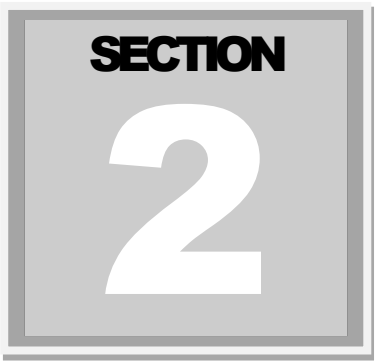
(Effective for taxable years beginning on or after January 1, 2023; HB 228, s. 1.1(a)., S.L. 2024-28.)

G.S. 105-160.6 – Time and Place of Filing Returns: This statute was rewritten to clarify that a taxpayer can receive an extension of time to file an income tax return under the provisions of G.S. 105-263 without asking the Secretary for the extension.

Under prior law, the statute allowed a taxpayer to ask the Secretary for an extension of time to file an income tax return under the provisions of G.S. 105-263. Because the 2018 General Assembly amended G.S. 105-263 to provide taxpayers that are granted an automatic federal extension with an automatic State extension to file the corresponding North Carolina income tax return, the statute was amended by the 2024 General Assembly to conform the statute to the other changes made to Article 9 of Chapter 105.

(Effective July 1, 2024; HB 228, s. 1.4(b), S.L. 2024-28.)

SECTION 2 – CORPORATE TAXES



FRANCHISE TAX – ARTICLE 3

G.S. 105-120.2(b) – Franchise or Privilege Tax on Holding Companies: Tax Rate: The 2023 General Assembly amended this subsection by setting a cap on the franchise tax for a holding company at five hundred dollars ($500) for the first one million dollars ($1,000,000) of its franchise tax base. As amended, the franchise tax rate is now five hundred dollars ($500) for the first one million dollars ($1,000,000) of the corporation's tax base as determined under G.S. 105-120.2(a) and one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of its tax base that exceeds one million dollars ($1,000,000).

(Effective for taxable years beginning on or after January 1, 2025, and is applicable to the calculation of franchise tax reported on the 2024 and later corporate income tax return; HB 259, s. 42.6A.(b), S.L. 2023-134.)

The 2024 General Assembly further amended this subsection to clarify that the new franchise tax rate for a holding company is one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the corporation's tax base, with a maximum of five hundred dollars ($500) for the first one million dollars ($1,000,000) of its tax base. As previously written, the amended law could have been misinterpreted to be a raise of the minimum tax rate, instead of setting a maximum on the first one million dollars ($1,000,000) of the franchise tax base. The minimum franchise tax remains two hundred dollars ($200) and the total maximum franchise tax for a holding company remains one hundred fifty thousand dollars ($150,000).

(Effective for taxable years beginning on or after January 1, 2025, and is applicable to the calculation of franchise tax reported on the 2024 and later corporate income tax return; SB 508, s. 11.2.(b), S.L. 2024-1.)

G.S. 105-122(d2) – Franchise or Privilege Tax on Domestic and Foreign Corporations: Tax Rate: The 2023 General Assembly amended this subsection by setting a cap on the franchise tax for a C Corporation at five hundred dollars ($500) for the first one million dollars ($1,000,000) of its franchise tax base. As amended, the franchise tax rate is now five hundred dollars ($500) for the first one million dollars ($1,000,000) of the corporation's tax base as determined under G.S. 105-120.2(a) and one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of its tax base that exceeds one million dollars ($1,000,000).

(Effective for taxable years beginning on or after January 1, 2025, and is applicable to the calculation of franchise tax reported on the 2024 and later corporate income tax return; HB 259, s. 42.6A.(a), S.L. 2023-134.)

The 2024 General Assembly further amended this subsection to clarify that the new franchise tax rate for a C Corporation is one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the corporation's tax base, with a maximum of five hundred dollars ($500) for the first one million dollars ($1,000,000) of its tax base. As previously written, the amended law could have been misinterpreted to be a raise of the minimum tax rate, instead of setting a maximum on the first one million dollars ($1,000,000) of the franchise tax base. The minimum franchise tax remains two hundred dollars ($200).

(Effective for taxable years beginning on or after January 1, 2025, and is applicable to the calculation of franchise tax reported on the 2024 and later corporate income tax return; SB 508, s. 11.2.(a), S.L. 2024-1.)

G.S. 105-129 – Extension of Time for Filing Returns: This section was rewritten to clarify that a taxpayer can receive an extension of time to file a franchise tax return under the provisions of G.S. 105-263 without asking the Secretary for the extension.

Under old law, this section allowed a taxpayer to ask the Secretary for an extension to time to file a franchise tax return under the provisions of G.S. 105-263. Because the 2018 General Assembly amended G.S. 105-263 to provide taxpayers who are granted an automatic federal extension with an automatic State extension to file their corresponding North Carolina franchise tax return, G.S. 105-129 was amended by the 2024 General Assembly to conform the statute to the other changes made to Article 9 of Chapter 105.

(Effective July 1, 2024; HB 319, s. 1.4.(d), S.L. 2024-28.)

CORPORATION INCOME TAX – ARTICLE 4, PART 1

G.S. 105-130.3 – Corporations: This section was amended by the 2021 General Assembly to phase out the corporate income tax imposed on C Corporations doing business in North Carolina beginning with the 2025 tax year. As amended, the tax is a percentage of the taxpayer's State net income computed as follows:

Taxable Years Beginning	Tax Rate
In 2025	2.25%
In 2026	2%
In 2028	1%
After 2029	0%

Note: Neither an S Corporation nor a Taxed S Corporation are subject to the tax levied in this section.

(Effective for taxable years beginning on or after January 1, 2025; SB 105, s. 42.2.(a), S.L. 2021-180.)

G.S. 105-130.17 – Time and Place of Filing Returns: Subsection (d) was rewritten to clarify that a taxpayer can receive an extension of time to file an income tax return under the provisions of G.S. 105-263 without asking the Secretary for the extension.

Under old law, this section allowed a taxpayer to ask the Secretary for an extension to time to file an income tax return under the provisions of G.S. 105-263. Because the 2018 General

Assembly amended G.S. 105-263 to provide taxpayers who are granted an automatic federal extension with an automatic State extension to file their corresponding North Carolina income tax return, G.S. 105-129 was amended by the 2024 General Assembly to conform the statute to the other changes made to Article 9 of Chapter 105.

(Effective July 1, 2024; HB 319, s. 1.4.(c), S.L. 2024-28.)

G.S. 105-130.34 – Credit for Certain Real Property Donations: The General Assembly reenacted the conservation tax credit for certain real property donations, as it existed before its previous expiration. The statute provides an income tax credit to a C Corporation that makes a qualified donation of real property in North Carolina for a specific qualifying conservation use. Subject to the limitations set forth by the 2024 General Assembly, the credit is equal to twenty-five percent (25%) of the fair market value of the donated property.

Subsection (a) provides the list of specific qualifying conservation uses which the credit is based and provides the aggregate amount of credit allowed to a corporation in a taxable year. In addition, the credit cannot be taken for the year in which the donation was made but can be taken for the taxable year beginning during the calendar year in which the application for the credit is effective.

Subsection (a1) defines the term “qualified donation.”

Subsection (a2) outlines the application process which the taxpayer must follow to be eligible for the credit.

Subsection (a3) requires the taxpayer claiming the credit to maintain and make available for inspection any information or records required by the Department.

Subsections (b) through (d) provide certain limitations for the credit allowed. If the credit exceeds the taxpayer’s tax liability for the year reduced by the sum of all other tax credits allowed, the excess is not refunded but may be carried forward for five years. In addition, Subsection (d) prevents a taxpayer from receiving a “double benefit” by not allowing the taxpayer that claims the credit from deducting a charitable contribution under G.S. 105-130.9 for the value of the donated property for which the credit is based.

Subsection (e) creates an aggregate cap on all credits allowed for donations made during a taxable year to individuals, pass-through entities, and corporations (collectively, “taxpayers”) of $5,000,000, of which $3,250,000 is reserved for credits to taxpayers that made a qualified donation for the specific use of forestland or farmland conservation. This subsection also provides the procedure for which the Department may reopen the application period if allocated funds become available.

Subsection (f) provides the procedures for the Department to follow when the aggregate amount of credits claimed by taxpayers exceed the ceiling provided in subsection (e).

Subsection (g) requires the Department to include specific information about the credit in the economic incentives report required to be published by May 1 of each year pursuant to G.S. 105-256(a)(2a).

(Effective for taxable years beginning on or after January 1, 2025, for donations made on or after January 1, 2025, and expires for taxable years beginning on or after January 1, 2027, for donations made on or after January 1, 2027; SB 355, s.15.(a), S.L. 2024-32.)

INSURANCE GROSS PREMIUMS TAX – ARTICLE 8B

G.S. 105-228.4A(g) – Tax on Captive Insurance Companies: This subsection was amended to change its expiration date and to eliminate the date a captive insurance company must redomesticate by, in order to qualify for exemption from premium taxes. Previously, the premium tax exemption applied to captive insurance companies formed and licensed under the laws of a jurisdiction other than North Carolina that redomesticated to North Carolina prior to December 31, 2022, and obtained approval from the North Carolina Commissioner of Insurance pursuant to G.S. 58-10-380(g) to operate as a North Carolina-domiciled captive insurance company. As amended, this date has been removed from the statute and the statutory expiration date for this exemption has been extended to taxable years beginning on or after January 1, 2026, from January 1, 2024.

(Effective July 2, 2024; SB 319, s. 3.(a), S.L. 2024-29.)

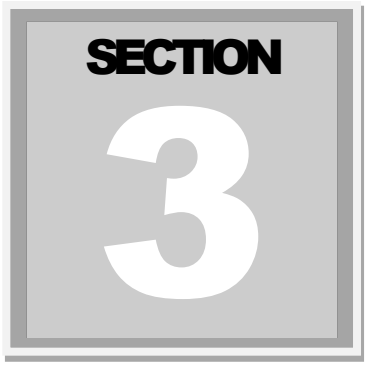
G.S. 105-228.5(d)(3) – Taxes Measured by Gross Premiums: This subdivision was amended to change the distribution of net proceeds credited to Workers' Compensation Fund from up to twenty percent (20%) to ten percent (10%). In addition, this subdivision was amended to reference that the Fund is established in G.S. 58-87-10 and that the Fund reserve cannot exceed forty-five million dollars ($45,000,000). As amended, the statute also now allocates ten percent (10%) of the net proceeds to the Office of the State Fire Marshal in the Department of Insurance to be used to fund the Firefighters' Cancer Insurance Program established in Article 86A of Chapter 58 of the General Statutes and limits the amount credited to ten million dollars ($10,000,000).

(Effective July 1, 2025, and applies to the distribution of net proceeds of the gross premiums tax collected on or after that date; SB 319, s. 10.2., S.L. 2024-29.)

G.S. 58-6-25 – Insurance Regulatory Charge: The percentage rate to be used in calculating the insurance regulatory charge under this statute is two percent (2%) for the 2024 calendar year and the 2025 calendar year. This charge is a percentage of premiums tax liability.

(Effective October 3, 2023; HB 259, s. 30.1.(a), S.L. 2023-134.)

SECTION 3 – EXCISE TAXES



REGULATE TOBACCO PRODUCTS
CHAPTER 14 - ARTICLE 39. PROTECTION OF MINORS

G.S. 14-313 – Youth Access to Tobacco Products, Alternative Nicotine Products, Vapor Products, and Cigarette Wrapping Papers: This section was amended to include "Alternative Nicotine Products" which are comprised of natural or synthetically sourced nicotine; does not contain tobacco; and does not include vapor products. Overall, "alternative nicotine product" replaced the former terminology "tobacco-derived product". The following laws were revised to ensure the proper enforcement of tobacco regulations and now read as follows.

(Effective December 1, 2024; HB 900, s. 2.(a), S.L. 2024-31.)

G.S. 14-313(a) – Definitions: This section was rewritten to include or amend terms as they relate to "alternative nicotine" and reads as follows:

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

(1) Alternative nicotine product - Any noncombustible product that contains nicotine, whether natural or synthetic, but does not contain tobacco and is intended for human consumption, whether chewed, absorbed, dissolved, ingested, or by other means. This term does not include a vapor product, or any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

(1a) Consumable product - Consumable product shall have the same meaning as provided in G.S. 105-113.4(1k). For purposes of this section, a consumable product does not contain any tobacco leaf.

(1c) FDA - Food and Drug Administration.

(3b) Secretary - The Secretary of the Department of Revenue.

(3c) Timely Filed Premarket Tobacco Product Application. An application pursuant to 21 U.S.C. § 387j for a vapor product or consumable product containing nicotine derived from tobacco marketed in the United States as of August 8, 2016, that was submitted to the United States Food and Drug Administration on or before September 9, 2020, and accepted for filing.

(4) Tobacco product - Any product that contains tobacco and is intended for human consumption. For purposes of this section, the term includes the alternative nicotine product, vapor product, consumable product, or components of a vapor product.

(5) Vapor product - Any noncombustible product that employs a mechanical heating element battery, or electronic circuit regardless of shape or size and that can be used to heat a consumable product. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, and electronic pipe. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act."

(Effective December 1, 2024; HB 900, s. 2.(a), S.L. 2024-31.)

G.S. 14-313(b) – Sale or Distribution to Persons Under the Age of 18 Years: This section was amended to remove "tobacco-derived products" and reflect current language as it relates to "alternative nicotine products" and reads as follows:

N.C. LAW STRICTLY PROHIBITS
THE PURCHASE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, VAPOR PRODUCTS, AND CIGARETTE WRAPPING PAPERS
BY PERSONS UNDER THE AGE OF 18.
PROOF OF AGE REQUIRED.

(Effective December 1, 2024; HB 900, s. 2.(a), S.L. 2024-31.)

G.S. 14-313(b1) – Distribution of Tobacco Products: This section was amended to remove language related to conditions noted in statute prior to 2013 regarding tobacco-derived products, vapor products, or components of vapor products distributed in vending machines. Modifications to subsection (b1) of this statute clarifies current conditions and reads as follows:

(b1) Tobacco products shall not be distributed in vending machines; provided, however, vending machines distributing tobacco products are permitted (i) in any establishment which is open only to persons 18 years of age and older; or (ii) in any establishment if the vending machine is under the continuous control of the owner or licensee of the premises or an employee thereof and can be operated only upon activation by the owner, licensee, or employee prior to each purchase and the vending machine is not accessible to the public when the establishment is closed. The owner, licensee, or employee shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age. Failure to demand proof of age as required by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18 years of age. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought under this subsection. Any person distributing tobacco products through vending machines in violation of this subsection shall be guilty of a Class 2 misdemeanor.

Effective December 1, 2024; HB 900, s. 2.(a), S.L. 2024-31.)

G.S. 14-313(e) – Statewide Uniformity: Subsection (e) was amended to remove "tobacco-derived products" from the statute and integrate "alternative nicotine products." Revisions to subsection (e) clarify rules or regulations concerning the sale, distribution, display or promotion of "alternative nicotine products" on or after December 1, 2024, and reads as follows:

(e) Statewide uniformity. – It is the intent of the General Assembly to prescribe this uniform system for the regulation of tobacco products and cigarette wrapping papers to ensure the eligibility for and receipt of any federal funds or grants that the State now receives or may receive relating to the provisions of this section. To ensure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules or regulations concerning the sale, distribution, display or promotion of (i) tobacco products or cigarette wrapping papers on or after September 1, 1995, (ii) alternative nicotine products or vapor products on or after August 1, 2013, or (iii) alternative nicotine products on or after December 1, 2024. This subsection does not apply to the regulation of vending machines, nor does it prohibit the Secretary of Revenue from adopting rules with respect to the administration of the tobacco products taxes levied under Article 2A of Chapter 105 of the General Statutes.

(Effective December 1, 2024; HB 900, s. 2.(a), S.L. 2024-31.)

G.S. 14-313(g) – Certification of Vapor Products and Consumable Products: Subsection (g) was added to this statute to introduce the Department of Revenue in the certification process as outlined in Part 3 of Article 4 of Chapter 143B of the General Statutes.

(g) Certification of Vapor Products and Consumable Products. As required by Part 3 of Article 4 of Chapter 143B of the General Statutes, the Secretary of the Department of Revenue shall certify vapor products and consumable products eligible for retail sale in this State and shall list them on a directory.

(Effective December 1, 2024; HB 900, s. 2.(a), S.L. 2024-31.)

G.S. 14-313(h) – Fines and Civil Penalties: Subsection (h) was added to this statute to delineate penalties and enforcement thereof that apply to violations of the certification requirements established by Part 3 of Article 4 of Chapter 143B of the General Statutes.

As written, subsection (h) provides the following:

(h) Fines and Civil Penalties. – The following penalties shall apply to violations of the certification requirements for consumable products and vapor products required by Part 3 of Article 4 of Chapter 143B of the General Statutes.

(1) Retailer, distributor, or wholesaler fines. – A retailer, distributor, or wholesaler who offers for sale a consumable product or vapor product intended for ultimate retail sale in this State that is not included in the directory is subject to a warning with a mandatory reinspection of the retailer within 30 days of the violation of Part 3 of Article 4 of Chapter 143B of the General Statutes:

a. For a second violation of this type within a 12-month period, the fine shall be at least five hundred dollars ($500.00) but not more than seven hundred fifty dollars ($750.00) and, if licensed, the license shall be suspended for 30 days.

b. For a third or subsequent violation of this type within a 12-month period, the fine shall be at least one thousand dollars ($1,000) but not more than one thousand five hundred dollars ($1,500) and, if licensed, the license shall be revoked.

c. Upon a second or subsequent violation of this type, consumable products or vapor products that are not on the directory as required by G.S. 143B-245.12, and are possessed by a retailer, distributor, or wholesaler, shall be subject to seizure, forfeiture, and destruction. The cost of such seizure, forfeiture, and destruction shall be borne by the person from whom the products are confiscated, except that no products may be seized from a consumer who has made a bona fide purchase of such product. The Secretary may store and dispose of the seized products as appropriate, in accordance with federal, State, and local laws pertaining to storage and disposal of such products.

(2) Manufacturer penalties. – A manufacturer whose consumable products or vapor products are not listed in the directory as required by G.S. 143B-245.12, and who causes the products that are not listed to be sold for retail sale in North Carolina, whether directly or through an importer, distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty of ten thousand dollars ($10,000) for each individual product offered for sale in violation of Part 3 of Article 4 of Chapter 143B of the General Statutes until the offending product is removed from the market or until the offending product is properly listed on the directory. In addition, any manufacturer that falsely represents any information required by a certification form shall be guilty of a misdemeanor for each false representation.

(Effective December 1, 2024; HB 900, s. 2.(a), S.L. 2024-31.)

Moreover, G.S. 14-313(h) Fines and Civil Penalties is succeeded by subsection (b) and (c) in SL2024-31 HB900 conveying enforcement actions and reads as follows:

(b) In an action to enforce this section, the state shall be entitled to recover costs, including the costs of investigation, expert witness fees, and reasonable attorney fees.

(c) A repeated violation of the requirements of Part 3 of Article 4 of Chapter 143B of the General Statutes shall constitute a deceptive trade practice under Chapter 75 of the General Statutes.

(Effective December 1, 2024; HB 900, s. 2.(a), S.L. 2024-31.)

CHAPTER 143B – EXECUTIVE ORGANIZATION ACT OF 1973
ARTICLE 4. DEPARTMENT OF REVENUE.

Part 3. Certification and Directory of Vapor Products and Consumable Products

Article 4 of Chapter 143B of the General Statutes was amended adding Part 3 to validate the certification process as it relates to the Department of Revenue and the "Certification Directory of Vapor Products and Consumable Products". Part 3 outlines rules that were added for the implementation and enforcement of this section.

G.S. 143B-245.10 – Definitions: This section was added to include or amend terms as they relate to "alternative nicotine". These terms apply throughout Part 3 and have the same meaning as provided by Chapter 14, Article 39 of the General Statutes definitions. The terms are defined in the statute provided in the subsection and reads as follows:

The following definitions apply throughout this part:

(1) Alternative nicotine product. – As defined in G.S. 14-313(a)(1).
(2) Consumable product. – As defined in G.S. 14-313(a)(1a).
(3) Distribute. – As defined in G.S. 14-313(a)(1b).
(4) FDA. – As defined in G.S. 14-313(a)(1c).
(5) Secretary. – The Secretary of the Department of Revenue.
(6) Timely Filed Premarket Tobacco Product Application. – As defined in G.S. 14-313(a)(3c).
(7) Tobacco product. – As defined in G.S. 14-313(a)(4).
(8) Vapor product. – As defined in G.S. 14-313(a)(5).

(Effective December 1, 2024; HB 900, s. 2.(b), S.L. 2024-31.)

G.S. 143B-245.11 – Certification Process: This section was added to delineate the requirements for every manufacturer of vapor products and consumable products sold for retail sale in this State as well as the fees related to the certification process and annual renewal.

As written, Part 3 of Chapter 143B, Article provides the following:

(a) Certification. – Beginning March 1, 2025, and annually thereafter, every manufacturer of vapor products and consumable products sold for retail sale in this State, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the Secretary, a certification to the Secretary under penalty of perjury, of the following:

(1) The manufacturer received an order granted pursuant to 21 U.S.C. § 387j(c) (marketing granted order) for the vapor product or consumable product from the FDA.

(2) The manufacturer submitted a Timely Filed Premarket Tobacco Product Application as defined in G.S. 14-313(a)(3c) for the vapor product or consumable product; and the application either remains under review by the FDA or has received a denial order that has been and remains stayed

by the FDA or court order, rescinded by the FDA, or vacated by a court.

(3) The manufacturer is exempt from the requirements of subdivision (1) or (2) of this subsection because the vapor product or consumable product only reflects changes to the name, brand style, or packaging of a vapor product or consumable product.

(b) Requirements for Manufacturers; Fees. – In addition to the requirements contained in subsection (a) of this section, each manufacturer shall provide to the Secretary the following:

(1) For each vapor product and consumable product offered by the manufacturer, a copy of (i) the marketing granted order issued by the FDA pursuant to 21 U.S.C. § 387j; (ii) a copy of the acceptance letter issued by the FDA pursuant to 21 U.S.C. § 387j for a Timely Filed Premarket Tobacco Product Application; or (iii) a document issued by the FDA or by a court confirming that the premarket tobacco product application has received a denial order that is not yet in effect; and

(2) An initial fee of two thousand dollars ($2,000) to offset the costs incurred by the Department of Revenue for processing the certifications and operating the directory and an annual renewal fee of five hundred dollars ($500.00) each year on March 1 to offset the costs associated with maintaining the directory and satisfying the requirements of this section for each consumable product or vapor product to be listed in the directory.

(c) Certification Form. – The certification form shall separately list each brand name, category (e.g., e-liquid, power unit, device, e-liquid cartridge, e-liquid pod, disposable), product name, and flavor for each consumable product or vapor product that is sold in this State.

(d) Confidentiality. – The information submitted by the manufacturer pursuant to subsections (a) and (b) of this section shall be considered confidential commercial or financial information for purposes of G.S. 132-1.2. The manufacturer may redact certain confidential commercial or financial information provided under subsection (a) of this section. The Secretary shall not disclose such information except as required or authorized by law.

(e) Notification of Material Changes to the Certification. – Any manufacturer submitting a certification pursuant to subsections (a) and (b) of this section shall notify the Secretary as soon as practicable but not later than 30 days of any material change to the certification, including the issuance or denial of a marketing authorization or other order by the FDA pursuant to 21 U.S.C. § 387j, or any other order or action by the FDA or any court that affects the ability of the consumable product or vapor product to be introduced or delivered into interstate commerce for commercial distribution in the United States.

(Effective December 1, 2024; HB 900, s. 2.(b), S.L. 2024-31.)

G.S. 143B-245.12 – Public Directory: This section defines the development and maintenance of the manufacturer's certification list referred to as the "Public Directory". The obligations of both the manufacturer and the Department of Revenue are provided in this section.

As written, subsection (a) thru (c) of this section provides the following:

(a) Development and Maintenance of Directory. – Beginning on May 1, 2025, the Secretary shall develop, maintain, and make publicly available on the Secretary's public website a directory listing all manufacturers of consumable products or vapor products that have provided certifications that comply with G.S. 143B-245.11(a) and (b) and all product names, brand names, categories (e.g., e-liquid, e-liquid cartridge, e-liquid pod, disposable), and flavors for which certifications have been submitted and approved by the Secretary. The Secretary shall update the directory at least monthly to ensure accuracy. The Secretary shall establish a process to provide licensed retailers, distributors, and wholesalers notice of the initial publication of the directory and changes made to the directory in the prior month.

(b) Exclusion from the Directory. – No manufacturer or the manufacturer's consumable products or vapor products shall be included or retained in the directory if the Secretary determines that any of the following apply:

(1) The manufacturer failed to provide a complete and accurate certification as required by G.S. 143B-245.11(a) and (b).

(2) The manufacturer submitted a certification that does not comply with the requirements of G.S. 143B-245.11(c).

(3) The manufacturer failed to include with its certification the payment required by G.S. 143B-245.11(b).

(4) The manufacturer sold products in North Carolina required to be certified under this Part during a period when either the manufacturer or the product had not been certified and listed on the directory.

(5) The information provided by the manufacturer in its certification is determined by the Secretary to contain false information or contains material misrepresentations or omissions.

(c) Removal from the Directory. – The Secretary shall provide the manufacturer notice and an opportunity to cure deficiencies before removing the manufacturer or products from the directory.

(1) The Secretary may not remove the manufacturer or its products from the directory until at least 30 days after the manufacturer has been given notice of an intended action. Notice shall be sufficient and be deemed immediately received by a manufacturer if the notice is sent either electronically or by facsimile to an electronic mail address or facsimile number, as the case may be, provided by the manufacturer in its most recent certification filed under G.S. 143B-245.11(a).

(2) The manufacturer shall have 15 business days from the date of service of the notice of the Secretary's intended action to establish that the manufacturer of consumable products or vapor products should be included in the directory.

(3) Retailers shall have 30 days following the removal of a manufacturer or its products from the directory to sell such products that were in the retailer's inventory as of the date of removal or remove those products from inventory and return them to the distributor or wholesaler from whom the products were purchased for a refund.

(4) After 30 days following removal from the directory, the consumable product or vapor product of a manufacturer identified in the notice of removal and intended for retail sale in North Carolina may not be purchased or sold for retail sale in North Carolina.

(5) A determination by the Secretary to not include or to remove from the directory a manufacturer or a manufacturer's product shall be subject to review by the filing of a civil action for prospective declaratory or injunctive relief.

(Effective December 1, 2024; HB 900, s. 2.(b), S.L. 2024-31.)

G.S. 143B-245.13 – Retail Sale of Consumable Products and Vapor Products: This section affirms that consumable products or vapor products must be included in the "Public Directory" maintained by the Department of Revenue. Retailers, distributors or wholesalers shall have 60 days from the date the directory is made available for inspection on the Department's public website to remove those products from its inventory.

As written, subsection (a) of this section provides the following:

(a) Products Prohibited from Retail Sale. – Except as provided in subdivisions (1) and (2) of this subsection, beginning May 1, 2025, or on the date that the Department of Revenue first makes the directory available for public inspection on its public website as provided in G.S. 143B-245.12(a), whichever is later, consumable products or vapor products not included in the directory may not be sold for retail sale in North Carolina, either directly or through an importer, distributor, wholesaler, retailer, or similar intermediary or intermediaries.

(1) Each retailer shall have 60 days from the date that the Secretary first makes the directory available for inspection on its public website to sell products that were in its inventory and not included in the directory or remove those products from inventory and return them to the distributor or wholesaler from whom the products were purchased for a refund.

(2) Each distributor or wholesaler shall have 60 days from the date that the Secretary first makes the directory available for inspection on its public website to remove those products intended for ultimate retail sale in the State from its inventory.

(3) After 60 calendar days following publication of the directory, consumable products or vapor products not listed in the directory and intended for retail sale in North Carolina may not be purchased or sold for retail sale in North Carolina except as provided in G.S. 143B-245.12(c).

(Effective December 1, 2024; HB 900, s. 2.(b), S.L. 2024-31.)

G.S. 143B-245.14 – Agent for Service of Process: This section defines the conditions that apply to manufacturers not registered to do business in the State and manufacturers located outside of the United States. Both must be represented by a registered agent in this State for service of process. Obligations of a manufacturer imposed by this section also apply to the importers with respect to appointment of their agents. The section identifies the respective conditions and reads as follows:

(a) Registered Agent. – The following conditions apply:

(1) A manufacturer not registered to do business in the State shall, as a condition precedent to having its name or its products listed and retained in the directory, appoint and continually engage without interruption a registered agent in this State for service of process on whom all process and any action or proceeding arising out of the enforcement of this Part or G.S. 14-313(g) and (h) may be served. The manufacturer shall provide to the Secretary the name, address, and telephone number of its agent for service of process and shall provide any other information relating to its agent as may be requested by the Secretary.

(2) A manufacturer located outside of the United States shall, as an additional condition precedent to having its products listed or retained in the directory, cause each of its importers of any of its products to be sold in the State to appoint, and continually engage without interruption, the services of an agent in the State in accordance with the provisions of this section. All obligations of a manufacturer imposed by this section with respect to appointment of its agent shall also apply to the importers with respect to appointment of their agents.

(3) A manufacturer shall provide written notice to the Secretary 30 calendar days prior to the termination of the authority of an agent appointed pursuant to subdivisions (1) and (2) of this subsection. No less than five calendar days prior to the termination of an existing agent appointment, a manufacturer shall provide to the Secretary the name, address, and telephone number of its newly appointed agent for service of process and shall provide any other information relating to the new appointment as may be requested by the Secretary. In the event an agent terminates an agency appointment, the manufacturer shall notify the division of the termination within five calendar days and shall include proof to the satisfaction of the division of the appointment of a new agent.

(Effective December 1, 2024; HB 900, s. 2.(b), S.L. 2024-31.)

G.S.143B-245.15 – Compliance: This section serves as notification that each retailer, distributor, and wholesaler who sells or distributes consumable products or vapor products in this State is subject to unannounced compliance checks. Additionally, unannounced follow-up compliance checks of all found noncompliant shall be conducted within 30 days of a violation related to Part 3 of Article 4 of Chapter 143B of the General Statutes.

As written, subsection (a) of this section provides the following:

(a) Unannounced Compliance Check. – Each retailer, distributor, and wholesaler that sells or distributes consumable products or vapor products in this State shall be subject to unannounced compliance checks by the Secretary or its designee, which may include State

and local law enforcement officials, for purposes of enforcing this part. Unannounced follow-up compliance checks of all noncompliant retailers, distributors, and wholesalers shall be conducted within 30 days after any violation of this part.

(1) Any person who observes a violation described in G.S. 143B-245.13 may alert the Secretary of such violation, and the Secretary shall cause an unannounced compliance check to occur with respect to the person alleged to be in violation.

(2) The Secretary shall publish the results of all compliance checks at least annually and shall make the results available to the public on request.

(Effective December 1, 2024; HB 900, s. 2.(b), S.L. 2024-31.)

G.S. 143B-245.16 – Rules; Use of Fees; Report: This section enables the Secretary to adopt rules to support the Department of Revenue in the implementation and enforcement of Part 3 of Article 4 of Chapter 143B of the General Statutes and reads as follows:

(a) Rules. – The Secretary shall adopt rules for the implementation and under this Part and enforcement of this Part

(b) Use of Fees and Penalties. – The fees received under this Part and the penalties collected under G.S. 14-313(h) by the Department of Revenue shall be used by the Department of Revenue exclusively for processing the certifications, operating and maintaining the directory, and enforcement of this Part.

(c) Report. – Beginning on January 31, 2026, and annually thereafter, the Secretary shall provide a report to the legislature regarding the status of the directory, manufacturers and products included in the directory, revenue and expenditures related to administration of this section, and enforcement activities undertaken pursuant to this section, including the number of stores that have been inspected and the results from such inspections.

(Effective December 1, 2024; HB 900, s. 2.(b), S.L. 2024-31.)

ALCOHOLIC BEVERAGE LICENSE AND EXCISE TAXES ARTICLE 2C - PART 5. ADMINISTRATION.

This section was amended to augment the language previously provided for excise tax imposed by Chapter 105, article 2C as it relates to the reporting and payment of tax due.

G.S. 105-113.83(a) – Filing Periods: Subsection (a) was added to this statute to clarify filing periods relative to the reporting of and payment for excise tax levied by Article 2C.

G.S. 105-113.83(a) reads as rewritten

(a) Filing Periods. – The excise tax imposed by this Article is payable when a report is due. A report is due annually or monthly, as specified in this section, and must be filed regardless of whether alcoholic beverages were sold or otherwise disposed of in this State. A report covers liabilities that accrue in the reporting period. Liabilities accrue in the reporting

period in which the alcoholic beverage is first sold or otherwise disposed of in this State. A return must be in the form prescribed by, and contain information required by, the Secretary.

(Effective July 1, 2024; HB 228, s. 3.1, S.L. 2024-28.)

G.S. 105-113.83(a1) – Liquor: This statute was rewritten to clarify who is responsible for the reporting of and payment for excise tax imposed on Liquor under the provisions Article 2C.

G.S. 105-113.83(a1) is amended to read as follows:

(a1) Liquor. – The excise tax on liquor levied under G.S. 105-113.80(c) is payable monthly by the local ABC board and by a distillery. The local ABC board and distillery must file a monthly report, and the report is due on or before the 15th day of the month following the month covered by the report.

(Effective July 1, 2024; HB 228, s. 3.1, S.L. 2024-28.)

G.S. 105-113.83(b) – Malt Beverage and Wine: This statute was rewritten to clarify who is responsible for the reporting of and payment for excise tax imposed on malt beverage and wine under the provisions Article 2C.

G.S. 105-113.83(b) is amended to read as follows:

(b) Malt Beverage and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable by the resident wholesaler or importer who first handles the beverages in this State. The taxes on malt beverages and wine are payable only once on the same beverages. The wholesaler or importer must file a monthly report, and the report is due on or before the 15th day of the month following the month covered by the report. The report must include the sales records for the month for which the taxes are paid, indicate the amount of excise tax due, and indicate separately any transactions to which the excise tax does not apply.

(Effective July 1, 2024; HB 228, s. 3.1, S.L. 2024-28.)

G.S. 105-113.83(b1) – Brewery and Winery Option: This statute was amended to make clear the requirements mitigating non-payment of tax levied under the provisions of G.S.105-113.80(a) and (b) relative to transferred malt beverages or wine and when it is reported.

G.S. 105-113.83(b1) is amended to read as follows:

(b1) Brewery and Winery Option. – A brewery or winery may be relieved of paying the tax levied under G.S. 105-113.80(a) and (b) if all of the following apply:

(1) The brewery or winery holds a permit issued under G.S. 18B-1101, 18B-1102, or 18B-1104.
(2) The brewery or winery transfers malt beverages or wine to a wholesaler permitted under G.S. 18B-1107 or G.S. 18B-1109.
(3) The wholesaler agrees in writing to be responsible for the tax due on

the transferred malt beverages or wine and provides the Secretary a copy of the agreement upon request.

(4) The brewery or winery files a monthly report reporting the transfer of malt beverages or wine to the wholesaler.

(Effective July 1, 2024; HB 228, s. 3.1, S.L. 2024-28.)

G.S. 105-113.83(b3) – Wine Shipper Permittee: This statute was amended to enhance the language of the statute that governs a Wine Shipper Permittee.

G.S. 105-113.83(b3) is amended to read as follows:

(b3) Wine Shipper Permittee. – A wine shipper permittee must pay the excise tax levied under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to G.S. 18B-1001.1. A wine shipper permittee must file reports once a year detailing sales records for the year taxes are paid. The report is due on or before the fifteenth day of the first month of the following calendar year.

(Effective July 1, 2024; HB 228, s. 3.1, S.L. 2024-28.)

G.S. 105-113.83(c) – Railroad Sales: This statute was amended to clarify the requirements for persons operating a railroad train in this State on which alcohol is sold.

G.S. 105-113.83(c) is amended to read as follows:

(c) Railroad Sales. – Each person operating a railroad train in this State on which alcoholic beverages are sold must file monthly reports of the amount of alcoholic beverages sold in this State. The report is due on or before the fifteenth day of the month following the month covered by the report.

(Effective July 1, 2024; HB 228, s. 3.1, S.L. 2024-28.)

TAX ON MOTOR CARRIERS. ARTICLE 36B RETURNS OF CARRIERS

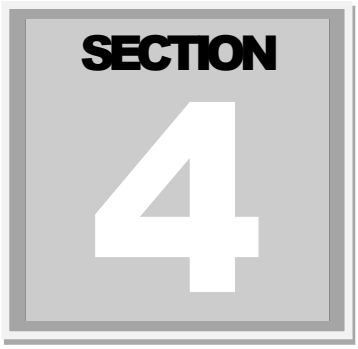
G.S. 105-449.45(a) – Return: This statute was amended to clarify the requirements for a motor carrier that did not operate a qualified motor vehicle during the reporting period.

G.S. 105-449.45(a) reads as rewritten:

(a) Return. – A motor carrier must report its operations to the Secretary on a quarterly basis unless subsection (b) of this section exempts the motor carrier from this requirement. A licensed motor carrier required to report its operations must file a return even if the person did not operate or cause to operate a qualified motor vehicle during the reporting period. A quarterly return covers a calendar quarter and is due by the last day of the month following the quarter. A return must be filed in the form required by the Secretary.

(Effective July 1, 2024; HB 228, s. 3.2, S.L. 2024-28.)

SECTION 4 – SALES AND USE TAX



SALES AND USE TAX – ARTICLE 5

DEFINITIONS

G.S. 105-164.3 – Definitions: The 2024 General Assembly amended the definition of one defined term. The change and effective date are as follows:

Streamlined Agreement: The definition of the term was amended to update the date and is now defined as "[t]he Streamlined Sales and Use Tax Agreement as amended as of *November 7, 2023*."

(Effective July 1, 2024; HB 228, s. 2.2., S.L. 2024-28.)

Note: The Revisor of Statutes was authorized to renumber the subdivisions of G.S. 105-164.3 to ensure that the subdivisions are listed in alphabetical order and in a manner that reduces the current use of alphanumeric designations, to make conforming changes, and to reserve sufficient space to accommodate future additions to the statutory section.

MISCELLANEOUS ITEMS

G.S. 105-164.4H – Real Property Contract: The 2024 General Assembly amended this statute to identify the time period for a person to receive an affidavit of capital improvement.

(a1) – Substantiation: The subdivision now provides, in part, the following: ". . . A person who receives an affidavit of capital improvement from another *person within 90 days of the sale or within 120 days of a substantiation request by the Secretary,* absent fraud or other egregious activities, is not liable for any additional tax on the gross receipts from the transaction if it is determined that the transaction is not a capital improvement. . . ." [Emphasis added.]

(Effective July 1, 2024; HB 228, s. 3.1., S.L. 2024-28.)

G.S. 105-164.8(b) – Retailer's Obligation to Collect Tax; Remote Sales Subject to Tax: The 2024 General Assembly amended this section to repeal the transaction based economic nexus thresholds for remote sellers.

(b) – Remote Sales: The subdivision now provides, in part, the following: "A retailer who makes a remote sale is engaged in business in this State and is subject to the tax levied under this Article if at least one of the following conditions is met:

. . .

(9) The retailer makes *gross sales in excess of one hundred thousand dollars ($100,000) from* remote sales sourced to this State, including sales as a

marketplace seller, for the previous or the current calendar *year.*

(10) The retailer is a marketplace facilitator that makes *gross sales in excess of one hundred thousand dollars ($100,000),* including all marketplace-facilitated sales for all marketplace sellers, *from sales* sourced to this State for the previous or the current calendar *year*." [Emphasis added.]

(Effective July 1, 2024; HB 228, s. 2.1.(a), S.L. 2024-28.)

Note: A person who holds a certificate of registration with the Department as of June 30, 2024, and is solely engaged in business in the State because the person exceeds the transaction threshold established in G.S. 105-164.8(b)(9)b. or G.S. 105-164.8(b)(10)b. may close the person's certificate of registration in accordance with procedures established by the Secretary. The person must collect tax, file returns, and remit tax for periods ending prior to the later of (i) July 1, 2024, or (ii) the date the person cancels his or her certificate of registration.

G.S. 105-164.27A – Direct Pay Permit: The 2024 General Assembly amended this section to implement a maximum use tax on certain sales of Qualifying Spirituous Liquor.

(a4) – Qualifying Spirituous Liquor: This subdivision now provides the following: "A person who purchases qualifying spirituous liquor may apply to the Secretary for a direct pay permit for the purchase of qualifying spirituous liquor. A direct pay permit issued under this subsection authorizes its holder to purchase qualifying spirituous liquor without paying tax to the seller and authorizes the seller to not collect any tax on the qualifying spirituous liquor from the permit holder. A person who purchases qualifying spirituous liquor under a direct pay permit must file a return and pay the tax due to the Secretary in accordance with G.S. 105-164.16. A direct pay permit issued for qualifying spirituous liquor does not apply to any purchase other than the purchase of qualifying spirituous liquor. The maximum use tax on qualifying spirituous liquor is one thousand dollars ($1,000). For purposes of this subsection, 'qualifying spirituous liquor' is a single container of spirituous liquor, as defined in G.S. 18B-101, the purchase price of which is equal to or greater than fifty thousand dollars ($50,000).

In lieu of selling under a direct pay permit pursuant to this subsection, a seller may voluntarily elect to collect and remit the maximum tax on qualifying spiritous liquor on behalf of the purchaser. Where the seller elects to collect and remit the maximum tax, an invoice given to the purchaser bearing the proper amount of tax on a retail transaction extinguishes the purchaser's liability for the tax on the transaction."

(Effective January 1, 2025, and applies to purchases occurring on or after that date.; SB 527, s. 23.(c), S.L. 2024-41.)

G.S 105-164.44M(b) – Transfer to Highway Fund: The 2024 General Assembly amended this section to change the frequency of the Sales and Use Tax transfer to the Highway Fund and Highway Trust Fund.

(b)Transportation Needs: This subdivision now provides, in part, the following: **"**The Secretary must*, on a monthly basis,* transfer to the Funds listed below a percentage of the net proceeds of the tax collected under this Article at the State's general rate of tax set in G.S. 105-164.4(a)." [Emphasis added.]

(Effective July 1, 2024; HB 198, s. 18.(a), S.L. 2024-15.)

G.S. 105-236(a) – Penalties; Situs of Violations; Penalty Disposition: The 2024 General Assembly amended this section to impose a civil penalty for the misuse of an affidavit of capital improvement by a purchaser.

(a) Penalties: The subdivision now provides, in part, the following: "The following civil penalties and criminal offenses apply:

. . .

(5a) Misuse of Exemption *Certificate or Affidavit of Capital Improvement.* – For misuse of an exemption certificate *or affidavit of capital improvement* by a purchaser, the Secretary shall assess a penalty equal to two hundred fifty dollars ($250.00). . . *An affidavit of capital improvement substantiates that a contract, or a portion of work to be performed to fulfill a contract, is to be taxed for sales and use tax purposes as a real property contract.*" [Emphasis added.]

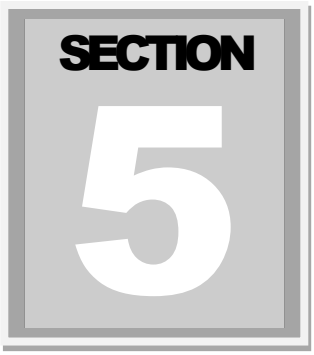
(Effective July 1, 2024; HB 228, s. 2.4., S.L. 2024-28.)

G.S. 105-241.8(b) – Exceptions to the Statute of Limitations for Assessments: The 2024 General Assembly amended this section to provide a new exception to the general statute of limitations following certain refund claims.

(5) Sales and Use Tax Customer Refund: This subdivision now provides: "If a purchaser receives a refund from a seller of sales and use tax paid to the seller, the period for proposing an assessment against the customer of any tax refunded is three years after the date of the refund."

(Effective July 1, 2024, and applies to assessments not barred by the statute of limitations prior to that date; HB 228, s. 2.3.(a), S.L. 2024-28.)

SECTION 5 – TRANSPORTATION COMMERCE TAX



TRANSPORTATION COMMERCE TAX – ARTICLE 5J

The 2023 General Assembly amended Subchapter I of Chapter 105 of the General Statutes to add Article 5J – Transportation Commerce Tax. This new tax is effective July 1, 2025, and applies to for-hire ground transport services occurring on or after that date. The new article provides the following:

G.S. 105-187.90 – Definitions:

The following definitions apply to this Article:

(1) Reserved for future codification purposes.
(2) Reserved for future codification purposes.
(3) Exclusive-ride service. – A for-hire ground transport service requested by a passenger who requests exclusive use of the vehicle.
(4) Reserved for future codification purposes.
(5) For-hire ground transport service. – Ground transportation in a passenger vehicle provided by a for-hire ground transport service provider for which a passenger is charged a fee.
(6) For-hire ground transport service provider. – A transportation network company as defined in [N.C. Gen. Stat. §] 20-280.1 or a taxi service regulated under [N.C. Gen. Stat. §] 160A-304.
(7) Reserved for future codification purposes.
(8) Reserved for future codification purposes.
(9) Shared for-hire ground transport service. – A for-hire ground transport service for which an individual has been matched with another individual by a for-hire ground transport service provider.
(10) Reserved for future codification purposes.

G.S. 105-187.91 – Tax Imposed:

(a) Levy and Rates. – An excise tax at the rates listed in this subsection is imposed on the gross receipts derived from each for-hire ground transport service if the passenger boards the vehicle in this State and regardless of whether the service is completed. The rates are:

(1) For an exclusive-ride service, one and one-half percent (1.5%).
(2) For a shared-ride service, one percent (1%).

(b) Trust Tax. – The tax imposed by this Article is intended to be passed on to and borne by the purchaser of the for-hire ground transport service. The for-hire ground transport service provider, and not the vehicle driver, must collect the tax due. The tax is a debt from the purchaser to the for-hire ground transport service provider until paid and is recoverable at law by the for-hire ground transport service provider in the same manner

as other debts. A for-hire ground transport service provider is considered to act as a trustee on behalf of the State when it collects tax from the purchaser on a taxable transaction. The tax must be stated and charged separately on any documentation provided to the purchaser by the for-hire ground transport service provider at the time of the transaction.

G.S. 105-187.92 – Registration:

(a) Requirement and Application. – A for-hire ground transport service provider that is not otherwise registered with the Department pursuant to [N.C. Gen. Stat. §] 105-164.29 must register with the Department.

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

(c) Term. – A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a person who makes taxable sales or a person liable for tax under this Article becomes void if, for a period of 18 months, the person files no returns or files returns showing no sales.

(d) Revocation. – The failure of a retailer to comply with this Article is grounds for revocation of the person's certificate of registration. Before the Secretary revokes a person's certificate of registration, the Secretary must notify the person that the Secretary proposes to revoke the certificate of registration and that the proposed revocation will become final unless the person objects to the proposed revocation and files a request for a Departmental review within the time set in [N.C. Gen. Stat. §]105-241.11 for requesting a Departmental review of a proposed assessment. The notice must be sent in accordance with the methods authorized in [N.C. Gen. Stat. §]105-241.20. The procedures in Article 9 of [Chapter 105 of the North Carolina General Statutes] for review of a proposed assessment apply to the review of a proposed revocation.

G.S. 105-187.93 – Administration: Except as otherwise provided in this Article, the tax imposed by this Article shall be collected and administered in the same manner as the State sales and use taxes imposed by Article 5 of [Chapter 105 of the North Carolina General Statutes]. The provisions of Article 9 of [Chapter 105 of the North Carolina General Statutes] that are not inconsistent with this Article, including administration, auditing, making returns, promulgation of rules and regulations by the Secretary, additional taxes, assessments and assessment procedure, imposition and collection of taxes and the lien thereof, and penalties, are made a part of this Article and shall be applicable thereto.

G.S. 105-187.95 – Use of Tax Proceeds: Each quarter, the Secretary shall credit the net tax proceeds of the taxes collected under this Article to the Highway Fund. The Secretary may retain the cost of administering this Article as reimbursement to the Department.

(Effective July 1, 2025, and applies to for-hire ground transport services occurring on or after that date; HB 259, s. 42.19, S.L. 2023-134.)

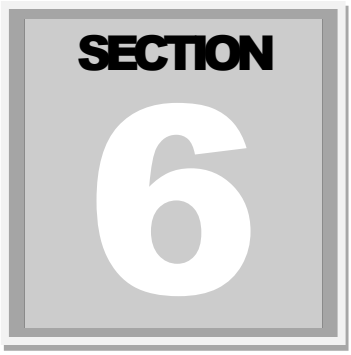
G.S. 105-187.94 – Exemptions and Refunds: This subsection is amended and provides *"[t]he following provisions apply to . . . [Article 5 of Chapter 105 of the North Carolina General Statutes]:*

(1) The exemptions and refunds allowed in Article 5 of [Chapter 105 of the North Carolina General Statutes] do not apply *except to* sales that the State cannot constitutionally tax.

(2) *The tax imposed by . . . [Article 5 of Chapter 105 of the North Carolina General Statutes] does not apply to for-hire ground transport service provided by a for-hire ground transport service provider as public transportation on behalf of a State agency, a governmental entity listed in G.S. 105-164.14(c), or a local board of education."* [Emphasis added.]

(Effective July 1, 2025, and applies to for-hire ground transport services occurring on or after that date; SB 508, s. 11.1.(a), S.L. 2024-1.)

SECTION 6 – LOCAL GOVERNMENT



G.S. 105-375(i) – Issuance of an Execution: Provides that an execution sale made pursuant to G.S. 105-375 is subject to "…C-PACE assessments authorized under Article 10B of Chapter 160A of the General Statutes…"

(Effective July 1, 2024; SB 802, s. 2, S.L. 2024-44.)

G.S. 105-374(k) – Judgment of Sale: Provides that a foreclosure sale made pursuant to G.S. 105-374 is subject to "…C-PACE assessments authorized under Article 10B of Chapter 160A of the General Statutes…"

(Effective July 1, 2024; SB 802, s. 3, S.L. 2024-44.)

G.S. 105-376(b) – Payment of Purchase Price by Taxing Units; Status of Property Purchased by Taxing Unit: Provides that a sale made pursuant to G.S. 105-376 is subject to "…C-PACE assessments authorized under Article 10B of Chapter 160A of the General Statutes…"

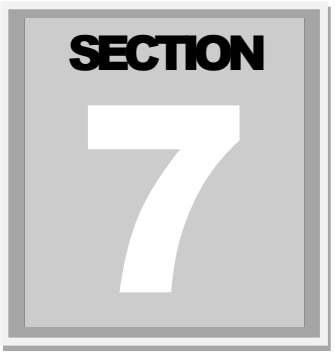
(Effective July 1, 2024; SB 802, s. 3.1, S.L. 2024-44.)

G.S. 105-369(c) – Time and Contents of Advertisement: Requires the County Tax Collector to advertise a line by posting a notice of the lien in a conspicuous manner at the parcel to be advertised.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2025; SB 607, s. 22(a), S.L. 2024-45.)

(Was repealed SB 382, s. 2J.1, S.L 2024-57.)

SECTION 7 – GENERAL ADMINISTRATION



GENERAL ADMINISTRATION – ARTICLE 9

G.S. 105-236(a)(4) – Failure to Pay Tax When Due: In general, subdivision (4) requires the Department to assess a penalty for failure to pay tax when due if the tax shown due on a return is not paid by the due date of the return.

The 2021 General Assembly enacted legislation to change the calculation of the penalty from a flat rate of ten percent (10%) to a graduated rate (two percent, 2%, for the first month the tax is not paid, increased by two percent, 2%, for each succeeding month, not to exceed ten percent, 10%.) The change was to be effective for taxes assessed on or after July 1, 2022.

The 2022 General Assembly later amended this subdivision to:

(1) Continue the current penalty rate of ten percent (10%) through December 2022;
(2) Temporarily reduce the penalty rate to five percent (5%) from January 2023 to June 2024; and
(3) Reintroduce the graduated penalty rate in July 2024.

(Effective June 30, 2022; HB 83, s. 5.6.(a), S.L. 2022-13. Effective January 1, 2023, and applies to tax assessed on or after that date; H83, s. 5.6.(b), S.L. 2022-13. Effective July 1, 2024, and applies to tax assessed on or after that date; H83 s. 5.6.(c), S.L. 2022-13.)

The 2024 General Assembly further amended this subdivision to extend the effective date to reintroduce the graduated penalty rate from July 2024 to July 2027.

(Effective July 1, 2024; HB 228, s. 4.1., S.L. 2024-28.)

G.S. 105-236(a)(5a) – Penalties; Situs of Violations; Penalty Disposition: The 2024 General Assembly amended this subdivision to impose a civil penalty for the misuse of an affidavit of capital improvement by the purchaser.

(a) Penalties: The subdivision now provides, in part, the following: "the following civil penalties and criminal offenses apply:

(5a) Misuse of Exemption *Certificate or Affidavit of Capital Improvement.* – For misuse of an exemption certificate *or affidavit of capital improvement* by a purchaser, the Secretary shall assess a penalty equal to two hundred fifty dollars ($250.00). . . *An affidavit of capital improvement substantiates that a contract, or a portion of work to be performed to fulfill a contract, is to be taxed for sales and use tax purposes as a real property contract.*" [Emphasis added.]

(Effective July 1, 2024; HB 228, s. 2.4., S.L. 2024-28.)

G.S. 105-241.8(b)(5) – Statute of Limitations for Assessments; Exceptions; Sales and Use Tax Customer Refund: The 2024 General Assembly amended this subdivision to provide a new exception to the general statute of limitations following certain refund claims.

(5) Sales and Use Customer Refund: This subdivision now provides: "If a purchaser receives a refund from a seller of sales and use tax paid to the seller, the period for proposing an assessment against the customer of any tax refunded is three years after the date of the refund."

(Effective July 1, 2024, and applies to assessments not barred by the statute of limitations prior to that date; HB 228, s. 2.3(a)., S.L. 2024-28.)

G.S. 105-259(b)(7) – Secrecy Required of Officials; Penalty for Violation; Disclosure Prohibited: This subdivision allows the Department to exchange information with certain agencies when the information is needed to fulfill a duty. One of those agencies is the State Highway Patrol.

The 2024 General Assembly passed legislation to make the State Highway Patrol an independent, cabinet-level department. This subdivision was amended to remove a reference to the Department of Public Safety.

(Effective July 1, 2025; SB 382, s. 3E.2.(w), S.L. 2024-57.)

APPENDIX A – DISASTER RELIEF

DISASTER RECOVERY ACT OF 2024 – SESSION LAW 2024-51

The 2024 General Assembly enacted legislation to support disaster relief and recovery for North Carolinians impacted by Hurricane Helene. This legislation included State tax relief. This appendix provides a summary of the tax law changes included in the Disaster Recovery Act of 2024 ("Act"). For further information on specific State tax relief and its application to persons required to file State tax returns, refer to the Act, Directive TA-24-1, and other notices issued by the Department.

G.S. 105-241.21(b) – Interest Waiver for Certain State Taxes: Section 13.1.(a) of the Act requires the Secretary to waive the accrual of interest from September 25, 2024, through May 1, 2025, on an underpayment of tax imposed on a franchise, corporate income, or individual income tax return, including a partnership and estate and trust tax return, due on September 25, 2024, through May 1, 2025, for a taxpayer that resides or is located in any county declared a major disaster by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene. In addition, the Secretary will waive interest that accrues on an individual or corporation for failure to pay the required State estimated income tax pursuant to G.S. 105-163.15 and G.S. 105-163.41.

G.S. 105-241.21(b) and G.S. 105-163.6 Withholding Taxes Interest Waiver: Section 13.1.(c) of the Act requires the Secretary to waive the accrual of interest on the following withholding taxes for a taxpayer located in any county declared a major disaster by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene:

(1) For an underpayment of tax due on a quarterly return for the third calendar quarter of 2024, the amount of interest accrued from October 31, 2024, through November 30, 2024, so long as the payment was made on or before November 30, 2024.

(2) For an underpayment of tax due on a monthly return for September 2024, the amount of interest accrued from October 15, 2024, through November 15, 2024, so long as the payment was made on or before November 15, 2024.

(3) For an underpayment of tax due on a monthly return for October 2024, the amount of interest accrued from November 15, 2024, through December 15, 2024, so long as the payment was made on or before December 15, 2024.

G.S. 105-241.21(b) – Sales and Use Tax Interest Waiver: Section 13.1.(b) of the Act requires the Secretary to waive the accrual of interest on the following State, local, or transit sales and use taxes for a taxpayer whose principal place of business is located in a county declared a major disaster by the President of the United States under the Stafford Act (P.L. 93-288) as a result of Hurricane Helene:

(1) For an underpayment of tax due on a quarterly return for the third calendar quarter of 2024, the amount of interest accrued from October 31, 2024, through November 30, 2024, so long as the payment was made on or before November 30, 2024.

(2) For an underpayment of tax due on a monthly return for September 2024, the amount of interest accrued from October 20, 2024, through November 20, 2024, so long as the payment was made on or before November 20, 2024.

(3) For an underpayment of tax due on a monthly return for October 2024, the amount of interest accrued from November 20, 2024, through December 20, 2024, so long as the payment was made on or before December 20, 2024.

G.S.105-131.1A & G.S. 105-154.1 – Taxed Partnership and S Corporation Election: Section 13.1.(d) of the Act requires the Secretary to consider the election to pay North Carolina income tax at the entity level (the "Taxed PTE Election") for tax year 2023 made by an S Corporation or an eligible partnership (collectively, a "PTE") as timely provided the PTE's tax return was due after September 25, 2024, and before May 1, 2025, and the Taxed PTE Election is made on a return filed on or before May 1, 2025.