



2017 TAX LAW CHANGES



**OFFICE OF THE ASSISTANT SECRETARY
FOR TAX ADMINISTRATION**

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PREFACE

The 2017 legislative session brought many changes to the Revenue laws and the North Carolina Department of Revenue. The **2017 Tax Law Changes** is designed for use by the North Carolina Department of Revenue personnel and is available to others as a resource document. It provides a brief summary of legislative tax changes made by prior General Assemblies that take effect for tax year 2017 as well as changes made by the 2017 General Assembly, regardless of effective date. This document includes changes to the tax law only and no other legislation that affect 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 a tax law change. I hope you find this information of value as you work with the North Carolina's tax laws.

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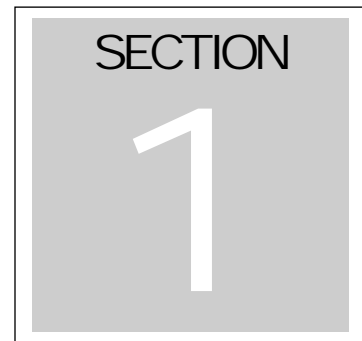
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PERSONAL TAXES



INDIVIDUAL INCOME TAX – ARTICLE 4, PART 2

G.S. 105-153.5(a)(1) – Standard Deduction: Beginning in 2014, the North Carolina General Assembly began increasing the standard deduction a taxpayer may deduct from adjusted gross income based on the taxpayer’s filing status. Both the 2016 General Assembly and the 2017 General Assembly continued this practice by amending G.S. 105-153.5(a)(1) to increase the standard deduction for each filing status as reflected in the tables below:

For taxable years beginning on or after January 1, 2017 and before January 1, 2019, the standard deduction amount for each filing status is as follows:

Filing Status	Standard Deduction
Married, filing jointly/surviving spouse	\$17,500
Head of Household	\$14,000
Single	\$ 8,750
Married, filing separately	\$ 8,750

For taxable years beginning on or after January 1, 2019, the standard deduction amount for each filing status is as follows:

Filing Status	Standard Deduction
Married, filing jointly/surviving spouse	\$20,000
Head of Household	\$15,000
Single	\$10,000
Married, filing separately	\$10,000

(The 2016 General Assembly amendment effective for taxable years beginning on or after January 1, 2017 and before January 1, 2019; HB 1030, s. 38.1(b), S.L. 2016-94. The 2017 General Assembly amendment effective for taxable years beginning on or after January 1, 2019; SB 257, s. 38.2(a), S.L. 2017-57.)

G.S. 105-153.5(a1) – Child Deduction Amount: G.S. 105-153.5 was amended as part of the changes made to modify and expand North Carolina’s child tax deduction. New G.S. 105-153.5(a1) allows a taxpayer a deduction for each dependent child for whom the taxpayer is allowed a federal child tax credit under section 24 of the Internal Revenue Code.

Under prior law, G.S. 105-153.10 provided a tax credit for children of up to \$125 per child, depending on a taxpayer’s filing status and amount of adjusted gross income (“AGI”). This legislation replaces the tax credit with a deduction of up to \$2,500 per child. The new child deduction also expands the number of taxpayers who benefit from the deduction by increasing the AGI limit from \$100,000 to \$120,000. As enacted, the new “Child Deduction Amount” is equal to the amount listed in the table below based on the taxpayer's AGI, as calculated under the Code:

Filing Status	AGI	Deduction Amount
Married, filing jointly/Surviving spouse	Up to \$40,000	\$2,500.00
	Over \$40,000 Up to \$60,000	\$2,000.00
	Over \$60,000 Up to \$80,000	\$1,500.00
	Over \$80,000 Up to \$100,000	\$1,000.00
	Over \$100,000 Up to \$120,000	\$500.00
	Over \$120,000	\$0.00
Head of Household	Up to \$30,000	\$2,500.00
	Over \$30,000 Up to \$45,000	\$2,000.00
	Over \$45,000 Up to \$60,000	\$1,500.00
	Over \$60,000 Up to \$75,000	\$1,000.00
	Over \$75,000 Up to \$90,000	\$500.00
	Over \$90,000	\$0.00
Single/Married, filing separately	Up to \$20,000	\$2,500.00
	Over \$20,000 Up to \$30,000	\$2,000.00
	Over \$30,000 Up to \$40,000	\$1,500.00
	Over \$40,000 Up to \$50,000	\$1,000.00
	Over \$50,000 Up to \$60,000	\$500.00
	Over \$60,000	\$0.00

(Effective for taxable years beginning on or after January 1, 2018; SB 257, s. 38.4(a), S.L. 2017-57.)

G.S. 105-153.5(b)(12) – Other Deductions: G.S. 105-153.5(b) was amended to add new subdivision (12) to provide a deduction from adjusted gross income for the amount deposited during the taxable year to a personal education savings account (“PESA”)

under Article 39A of Chapter 115C of the General Statutes, “Personal Education Savings Accounts” to the extent the deposit is included in the taxpayer’s adjusted gross income.

This subdivision was added as part of the enactment of Article 39A which establishes the “North Carolina Personal Saving Account Program” for the purpose of providing an option for a parent to better meet the individual educational needs of the parent’s eligible child. Article 39A consists of sections G.S. 115C-567.5 through G.S. 115C-567.13 and includes specific definitions for the program.

In general, Article 39A directs the State Treasurer to select recipients for an educational scholarship and requires the State Treasurer to deposit scholarship funds to a PESA in accordance with the provisions of Article 39A. G.S. 115C-567.10(c) provides that scholarship funds received pursuant to Article 39A are not taxable income to the parent, legal guardian, or legal custodian of an eligible student or to the eligible student.

(Effective for taxable years beginning on or after January 1, 2018; SB 257, s. 10A.4(b), S.L. 2017-57.)

G.S. 105-153.7(a) – Individual Income Tax Imposed: Two amendments were made to G.S. 105-153.7(a); once by the 2015 Session Laws and again by the 2017 Session Laws. Both amendments decrease the income tax rate imposed on an individual’s North Carolina taxable income.

The 2015 General Assembly reduced the individual income tax rate for tax years beginning on or after January 1, 2017 from 5.75% to 5.499%. The 2017 General Assembly further reduced the rate for taxable years beginning on or after January 1, 2019 from 5.499% to 5.25%.

(The 2015 General Assembly amendment was effective for taxable years beginning on or after January 1, 2017 and before January 1, 2019; HB 97, s. 32.16(c), S.L. 2015-241. The 2017 General Assembly amendment is effective for taxable years beginning on or after January 1, 2019; SB 257, s. 38.1(a), S.L. 2017-57.)

G.S. 105-153.10 – Credit for Children Repealed: G.S. 105-153.10 was repealed as part of the changes made to modify and expand the child tax deduction. The repealed statute provided a taxpayer with a tax credit of up to \$125 per child, depending on the taxpayer’s filing status and amount of adjusted gross income, if the taxpayer was allowed a federal tax credit under section 24 of the Internal Revenue Code.

With the repeal of G.S. 105-153.10 and the enactment of G.S. 105-153.5(a1), a taxpayer is allowed a deduction for each dependent child for whom the taxpayer disallowed a federal child tax credit under section 24 of the Internal Revenue Code. For more information on the child deduction, including the amount of the child deduction, see **Child Deduction Amount**, earlier in this publication.

(Effective for taxable years beginning on or after January 1, 2018; SB 257, s. 38.4(b), S.L. 2017-57.)

G.S. – 105-159 Federal Corrections: G.S. 105-159 was amended to include filing status, personal exemptions, standard deduction, and itemized deductions as federal audit adjustments that may affect the amount of State tax payable thus requiring a taxpayer to file an income tax return with the Secretary reflecting the corrected or determined amounts within six months after being notified by the federal government.

(Effective June 21, 2017; HB 59, s. 4(b), S.L. 2017-39.)

S CORPORATION INCOME TAX – ARTICLE 4, PART 1A

G.S. 105-131.5 – Part-year Resident Shareholder: G.S. 105-131.5 was amended to correct a statutory cross-reference to G.S. 105-134.5. The reference became obsolete for taxable years beginning on or after January 1, 2014 when G.S. 105-134.5 was recodified as new G.S. 105-153.4.

(Effective for taxable years beginning on or after January 1, 2014; SB 628, s. 1.7(a), S.L. 2017-204.)

G.S. 105-131.7(a) – S Corporation Tax Return: G.S. 105-131.7(a) was amended to correct an error in a statutory cross-reference. The statute as originally enacted made reference to G.S. 105-131(4) and (5). The correct cross-reference as rewritten is G.S. 105-131(b)(4) and (5).

(Effective for taxable years beginning on or after August 11, 2017; SB 628, s. 1.8 S.L. 2017-204.)

PARTNERSHIP INCOME TAX – ARTICLE 4, PART 2

The 2017 General Assembly made several changes to the partnership income tax law to clarify existing law and do not represent a change in the law. Specifically, the amendments clarify that although a partnership may treat guaranteed payments to a partner for services or for the use of capital as if the payments were paid to a person who is not a partner; that treatment is only for purposes of determining the partnership's gross income and deductible business expenses. For other tax purposes, guaranteed payments are treated as a partner's distributive share of ordinary income. For further information on these clarifying changes, see the summary of each law change below.

G.S. 105-134.1(5a) – Definition of Guaranteed Payments: G.S. 105-134.1 was amended to add new subdivision (5a) to define “guaranteed payments” by cross-reference to the definition of that term in section 707(c) of the Internal Revenue Code. *(Note: G.S. 105-134.1 was recodified as G.S. 105-153.3 effective for taxable years beginning on or after January 1, 2014.)*

(Effective for taxable years beginning before January 1, 2014; SB 628, s. 1.9(a), S.L. 2017-204.)

G.S. 105-134.5(d) – North Carolina Taxable Income Defined for Partnerships with Nonresidents: Pursuant to G.S. 105-134.5(b), a nonresident individual must determine North Carolina taxable income by multiplying the taxpayer’s federal adjusted gross income, as modified in G.S. 105-134.6 and G.S. 105-134.6A, by a fraction, the denominator of which is the taxpayer’s gross income as modified in G.S. 105-134.6 and 105-134.6A, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources.

G.S. 105-134.5(d) was rewritten to clarify that for a nonresident individual partner in a multistate partnership, income from North Carolina sources includes the individual partner’s distributive share of the partnership’s income plus any guaranteed payments made to the individual partner from the partnership. **(Note: G.S. 105-134.5 was recodified as G.S. 105-153.4 effective for taxable years beginning on or after January 1, 2014):**

(Effective for taxable years beginning before January 1, 2014; SB 628, s. 1.9(c), S.L. 2017-204.)

G.S. 105-153.3(5a) – Definition of Guaranteed Payments: G.S. 105-153.3 was amended to add new subdivision (5a) to define “guaranteed payments” by cross-reference to the definition of that term in section 707(c) of the Internal Revenue Code. **(Note. G.S. 105-153.3 was effective for taxable years beginning on or after January 1, 2014.)**

(Effective for taxable years beginning on or after January 1, 2014; SB 628, s. 1.9(b), S.L. 2017-204.)

G.S. 105-153.4(d) – North Carolina Taxable Income Defined for Partnerships with Nonresidents: Pursuant to G.S. 105-153.4(b), a nonresident individual must determine North Carolina taxable income by multiplying the taxpayer’s federal adjusted gross income, as modified in G.S. 105-153.5 and G.S. 105-153.6, by a fraction, the denominator of which is the taxpayer’s gross income as modified in G.S. 105-153.5 and 105-153.6, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources.

G.S. 105-153.4(d) was rewritten to clarify that for a nonresident individual partner in a multi-state partnership, income from North Carolina sources includes the individual partner’s distributive share of the partnership’s income plus any guaranteed payments made to the individual partner from the partnership. **(Note. G.S. 105-153.4 was effective for taxable years beginning on or after January 1, 2014.)**

(Effective for taxable years beginning on or after January 1, 2014; SB 628, s. 1.9(d), S.L. 2017-204.)

G.S. 105-154 – Partnership Tax Returns: Subsections (c) and (d) of G.S. 105-154 were amended to make it clear that the distributive share of the income of each nonresident partner includes any guaranteed payments made to the partner.

Subsection (c) requires every partnership doing business in North Carolina that is required to file a federal partnership return to file an informational return ("Form D-403") with the Secretary and provide all the information requested by the Secretary. As rewritten, G.S. 105-154(c) makes it clear that all partnership returns filed with the Secretary must include the partnership's gross income, the deductions allowed under the Code, each partner's distributive share of the partnership's income, and any adjustments required under North Carolina law. The amendment inserts language to clarify that a partner's distributive share of partnership net income includes any guaranteed payments made to the partner. Subsection (c) was also amended to delete the requirement to specify the part of each partner's distributive share of net income that represents corporation dividends.

Subsection (d) requires the managing partner of a partnership having one or more nonresident partners to report each nonresident partner's share of the partnership income on Form D-403 and to compute and pay the tax due for each nonresident partner. G.S. 105-154(d) was rewritten to insert language to make it clear that a partner's distributive share of partnership net income includes any guaranteed payments made to the partner.

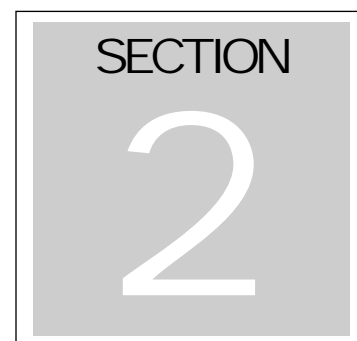
(Effective August 11, 2017 and applies to all taxable years; SB 628, s. 1.9(f), S.L. 2017-204.)

INCOME TAX – ESTATES, TRUST, AND BENEFICIAIRES

G.S. 105-160.2 – Imposition of Estates and Trusts Income Tax: G.S. 105-160.2 was rewritten to make a technical change by replacing the word "rates" with "rate" to reflect the fact that since tax year 2014, North Carolina has had a single individual income tax rate.

(Effective August 11, 2017; SB 628, s. 1.12, S.L. 2017-204.)

CORPORATE TAX



FRANCHISE TAX – ARTICLE 3

G.S. 105-114 – Nature of Taxes: Subsections (a), (a1), (a2), (a3), and (a4) were amended to modernize and remove unnecessary language in the franchise tax statutes. These changes in the franchise tax statutes result from certain language becoming obsolete due to the prior repeal of other franchise or privilege taxes administered in Article 3, such as taxes on electric power, water and sewerage, and mutual burial companies.

Subsection (a), which provided that taxes levied upon persons and partnerships under Article 3 are for the privilege of engaging in business or doing the act named, was repealed. This change reflects the prior repeal of certain franchise taxes.

Subsection (a1) was amended to delete the term “excise” because excise taxes administered under Article 3 were previously repealed.

Subsections (a2), (a3), and (a4) were amended to make conforming changes of “taxes” to “tax” based on the amendment in subsection (a1).

Subsection (a3) was amended to delete “fiscal year of the State in which the taxes become due” because it was only relevant to previously repealed excise taxes under Article 3. The tax levied in Article 3 is now only for the income tax year of the corporation in which the tax becomes due.

Subsection (a4) which prohibits double taxation was amended to remove the provision limiting the application of G.S. 105-122 only to the extent those taxes levied exceed the taxes levied in other sections of Article 3 on a corporation or on a limited liability company whose assets must be included in the corporation’s tax base under G.S. 105-114.1. This provision is no longer needed because of the previous repeal of certain franchise taxes.

(Effective August 11, 2017; SB 628, s. 1.1, S.L. 2017-204.

G.S. 105-120.2(c) – Franchise Tax for Holding Companies: This subsection lists the conditions under which a corporation can qualify as a holding company for franchise tax purposes. Subdivision (2) was amended to add “ownership interest” to the condition that

a corporation can qualify as a holding company. This amendment recognizes that a holding company may own companies that do not issue stock.

(Effective August 11, 2017; SB 628, s. 1.2, S.L. 2017-204.)

G.S. 105-122 – Franchise Tax on Corporations: Subsections (a) and (b) were amended to move the placement of language in the statute referencing the corporate books and records from subsection (a) to subsection (b).

(Effective June 21, 2017; HB 59, s. 2, S.L. 2017-39.)

G.S. 105-122 – Franchise Tax on Corporations: This section was amended to modernize and reorganize the language in the franchise tax statutes.

(Effective August 11, 2017; SB 628, s. 1.3(a), S.L. 2017-204.)

G.S. 105-122(d)(3) – Computation of Investment in Tangible Property Base: This subdivision from the reorganization of G.S. 105-122 was amended to reinstate a deduction for any indebtedness specifically incurred and existing solely for and as the result of the purchase of any real estate and any improvements made on the real estate. The deduction was previously eliminated in the 2015 General Assembly franchise tax simplification changes. With the reinstatement of the deduction, the term “specifically” was added into the phrase “indebtedness incurred” to emphasize the connection of the debt incurred specifically to the real estate purchased or improved.

(Effective for taxable years beginning on or after January 1, 2020 and applies to the calculation of franchise tax reported on the 2019 and later corporate income tax returns; SB 628, s. 1.3(b), S.L. 2017-204.)

G.S. 105-122(d2) – S Corporation Tax Rate: This subsection from the reorganization of the G.S. 105-122 was further amended to provide a future reduction in the franchise tax rate for S corporations. It provides that the franchise tax rate for an S corporation as defined in G.S. 105-130.2 is \$200 for the first one million dollars (\$1,000,000) of the corporation’s tax base and \$1.50 per \$1,000 of its tax base that exceeds one million (\$1,000,000). This rate reduction is for taxable years beginning on or after January 1, 2019 and will apply to the franchise tax reported on the 2018 and later corporate income tax returns.

(Effective for taxable years beginning on or after January 1, 2019 and applies to the calculation of franchise tax reported on the 2018 and later corporate income tax returns; SB 257, s. 38.6(a), S.L. 2017-57 and SB 628, s. 1.3(c), S.L. 2017-204.)

BUSINESS AND ENERGY TAX CREDITS – ARTICLE 3B

G.S. 105-129.16A – Sunset for Investing in Renewable Energy Property: The credit for investing in renewable energy property expired for property placed in service on or

after January 1, 2016. In 2015, the General Assembly made an exception by adding subsection (f) providing a delayed sunset of January 1, 2017 effective for projects that had achieved a minimum percentage of completion on or before January 1, 2016 subject to certain requirements and documentation.

The 2017 General Assembly further amended this section to add subsection (f1) providing an alternate delayed sunset for renewable energy property placed in service before May 5, 2017. This section is limited to property utilizing renewable biomass resources.

(Effective July 1, 2017; SB 257, s. 38.13, S.L. 2017-57.)

RAILROAD INTERMODAL FACILITIES TAX CREDIT – ARTICLE 3K

G.S. 105-129.96(a) – Placed in Service for Credit for Constructing a Railroad Intermodal Facility: This subsection was amended to clarify that the tax credit for constructing a railroad intermodal facility may be taken by a taxpayer even if the taxpayer was not the party that placed the facility into service in this State. Prior to the amendment, there was a conflict in the law regarding whether or not the lessor, as owner of the facility, qualified to claim the credit if the lessee placed the facility into service in this State during the taxable year. As rewritten, the law clarifies that the lessor may claim the tax credit as long as the lessee places the facility into service in this State during the taxable year.

This amendment also prohibits a taxpayer from claiming a credit to the extent the cost of the facility was provided by public funds.

(Effective for taxable years beginning on or after January 1, 2017; HB 59, s. 3(a), S.L. 2017-39.)

G.S. 105-129.96(c) – No Double Credit for Credit for Constructing a Railroad Intermodal Facility: This subsection was amended to provide that a taxpayer who leases the facility may not claim the credit unless the taxpayer obtains certification from the lessor that the lessor will not also claim the credit.

(Effective for taxable years beginning on or after January 1, 2017; HB 59, s. 3(a), S.L. 2017-39.)

HISTORIC REHABILITATION TAX CREDIT – ARTICLE 3L

G.S. 105-129.106(b) – Credit for Rehabilitating Non-Income-Producing Historic Structure: This subsection was amended to add the requirement for the transferor to provide the transferee with documentation detailing the amount of rehabilitation expenses and credit.

(Effective for taxable years beginning on or after January 1, 2017; SB 628, s. 1.4(a), S.L. 2017-204.)

CORPORATION INCOME TAX – ARTICLE 4, PART 1

G.S. 105-130.3 – Corporate Income Tax Rate Reduction: Effective for tax years beginning on or after January 1, 2017, this amendment codifies the existing corporate income tax rate of 3% as a result of North Carolina tax collections exceeding the trigger threshold and changing the statutory tax rate to 3% for 2017.

(Effective for taxable years beginning on or after January 1, 2017; SB 257, s. 38.5(a), S.L. 2017-57.)

G.S. 105-130.3 – Corporate Income Tax Rate Reduction: Effective for tax years beginning on or after January 1, 2019, the tax rate for C corporations is decreased from 3% to 2.5%.

(Effective for taxable years beginning on or after January 1, 2019; SB 257, s. 38.5(b), S.L. 2017-57.)

G.S. 105-130.3C – Corporate Income Tax Rate Reduction Trigger: This section is repealed as it is no longer needed because the rate reduction trigger was met and Section 38.5(a) of Session Law 2017-57 codified the existing corporate income tax rate of 3% for 2017 based on the trigger being met.

(Effective June 28, 2017; SB 257, s. 38.5(c), S.L. 2017-57.)

G.S. 105-130.4(a) – Allocation and Apportionment - Definitions: This subsection was amended to clarify that the definition of “apportionable income” means all income under the U.S. Constitution, including income that arises from transactions and activities in the regular course of business, or tangible and intangible property if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer’s trade or business. The amendment also adds to this subsection the term “business activity” which was previously codified in subsection (b).

(Effective for taxable years beginning on or after January 1, 2017; SB 628, s. 1.5(a), S.L. 2017-204.)

G.S. 105-130.4(m) – Apportionment – Railroad Company: This subsection pertaining to special apportionment of income for a railroad company, was amended to provide that records used to apportion North Carolina income must be kept using generally accepted accounting principles (“GAAP”). Previously, records were in accordance with the standard classification of accounts prescribed by the Interstate Commerce Commission. The Interstate Commerce Commission was abolished in 1995.

This amendment also reorganized the subsection by putting definitions in list form.

(Effective for taxable years beginning on or after January 1, 2017; SB 628, s. 1.5(a), S.L. 2017-204.)

G.S. 105-130.4(n) & (q) – Apportionment – Telephone and Telegraph Company: These subsections pertaining to special apportionment of income for telephone and telegraph companies have been repealed.

(Effective for taxable years beginning on or after January 1, 2017; SB 628, s. 1.5(a), S.L. 2017-204.)

G.S. 105-130.4(o) & (p) – Apportionment – Motor Carrier: These subsections pertaining to special apportionment of income for a motor carrier of property and a motor carrier of passengers have been consolidated into subsection (o). The amendment also provides that vehicle miles means miles traveled by vehicles owned or operated by the company based on (1) miles on a scheduled route, (2) miles hauling property for a charge, or (3) miles carrying passengers for a fare.

(Effective for taxable years beginning on or after January 1, 2017; SB 628, s. 1.5(a), S.L. 2017-204.)

G.S. 105-130.4(r) – Apportionment – Excluded Corporation and Public Utility: This subsection pertaining to special apportionment of income for excluded corporations and all other public utilities was amended to move the definitions of “excluded corporation” and “public utility” which were previously provided in subsection (a) into this subsection.

(Effective for taxable years beginning on or after January 1, 2017; SB 628, s. 1.5(a), S.L. 2017-204.)

G.S. 105-130.4(s2) – Apportionment – Pipeline Company: This subsection pertaining to special apportionment of receipts for a pipeline company was added to establish that receipts from transportation of a petroleum-based liquids pipeline company are to be apportioned by multiplying the income by a fraction, the numerator of which is the number of barrel miles in this State during the taxable year and the denominator of which is the number of barrel miles everywhere during the taxable year. For purposes of this subsection, the term “barrel mile” means one barrel of liquid property transported one mile.

(Effective for taxable years beginning on or after January 1, 2017; SB 628, s. 1.5(a) S.L. 2017-204.)

G.S. 105-130.4(i) – Phase-In Single Sales Factor Apportionment: The 2015 General Assembly enacted legislation to require North Carolina to phase in a single sales factor apportionment formula over a three year period, beginning in tax year 2016. Under prior law, the apportionment formula consisted of the sum of the property factor, the payroll factor, and twice the sales factor divided by four. As amended, subsection (i) of G.S. 105-130.4 is rewritten as follows:

- For taxable year 2016, the sales factor is triple weighted. As such, all apportionable income of a corporation must be apportioned to North Carolina

using an apportionment formula that consists of the sum of the property factor, the payroll factor, and three times the sales factor divided by five.

- For taxable year 2017, the sales factor will be quadruple weighted. As such, all apportionable income of a corporation must be apportioned to North Carolina using an apportionment formula that consists of the sum of the property factor, the payroll factor, and four times the sales factor divided by six.
- For taxable year 2018 and thereafter, the sales factor will be the only apportionment factor.

In addition, effective January 1, 2018, the following statutory provisions related to the property and payroll factor, as well as special apportionment rules that currently allow single sales factor apportionment, are repealed because they will no longer be necessary:

- G.S. 105-130.4(a)(6) – Definition of Public Utility
- G.S. 105-130.4(a)(4) – Definition of an Excluded Corporation
- G.S. 105-130.4(j) – Property Factor
- G.S. 105-130.4(k) – Payroll Factor
- G.S. 105-130.4(r) – Special Apportionment Rule for Excluded Corporations and Public Utilities
- G.S. 105-130.4(s1) – Special Apportionment Rule for a Qualified Capital Intensive Corporation.

(The amendment to triple-weight the sales factor is effective for taxable years beginning on or after January 1, 2016; HB 97, s. 32.14(a), S.L. 2015-241.)

(The amendment to quadruple-weight the sales factor is effective for taxable years beginning on or after January 1, 2017; HB 97, s. 32.14(b), S.L. 2015-241.)

(The amendment to a sales factor only apportionment formula and the repeal of the various special apportionment formulas is effective for taxable years beginning on or after January 1, 2018; HB 97, s. 32.14(c) and (d), S.L. 2015-241.)

G.S. 105-130.5(a)(25) – Addition to Federal Taxable Income for Net Interest to a Related Member: The 2015 General Assembly added this new subdivision to require a taxpayer to add to federal taxable income the amount of “net interest expense” paid to a related member as determined under G.S. 105-130.7B. For a definition of “net interest expense,” see **G.S. 105-130.7B – Related Member Limitation on Qualified Interest Provisions.**

(Effective for taxable years beginning on or after January 1, 2016; HB 97, s. 32.13(d), S.L. 2015-241.)

G.S. 105-130.5(b)(28) – Deduction from Federal Taxable Income for Qualified Interest Expense to a Related Member: The 2015 General Assembly added this

subdivision allowing a corporation to deduct the amount of “qualified interest expense” to a related member as determined under G.S. 105-130.7B. For a definition of “qualified interest expense,” see **G.S. 105-130.7B(b)(4) – Related Member Limitation on Qualified Interest –Definitions.**

(Effective for taxable years beginning on or after January 1, 2016; HB 97, s. 32.13(d), S.L. 2015-241.)

G.S. 105-130.7B – Related Member Limitation on Qualified Interest Provisions:

The 2015 General Assembly added this section to prevent corporations from artificially reducing their North Carolina taxable income through deductions of interest expense on loans from affiliates and related members by limiting the amount of related party interest deductions to a “qualified interest expense” amount. For a definition of “qualified interest expense,” see subsection (b), below. The 30% limitation of subsection (b) was never applicable to taxpayers because the language was changed prior to the effective date of the statute.

This section does not limit the Secretary’s authority to adjust a taxpayer’s net income as it relates to payments to or charges by a parent, subsidiary, or affiliated corporation in excess of fair compensation in an intercompany transaction under G.S. 105-130.5(a)(9).

Subsection (b) defines the following terms:

- 1) Adjusted taxable income – State net income of the taxpayer determined without regard to G.S. 105-130.7B and other adjustments as the Secretary may by rule provide.
- 2) Bank – One or more of the following, or a subsidiary or affiliate of one or more of the following:
 - a. A bank holding company as defined in the federal Bank Holding Company Act of 1956, as amended.
 - b. One or more of the following entities incorporated or chartered under the laws of this State, another state, or the United States:
 1. A bank. This term has the same meaning as defined in G.S. 53C-1-4.
 2. A savings bank. This term has the same meaning as defined in G.S. 54C-4.
 3. A savings and loan association. This term has the same meaning as defined in G.S. 54B-4.
 4. A trust company. This term has the same meaning as defined in G.S. 53C-1-4.
- 3) Net interest expense – The excess of the interest paid or accrued by the taxpayer to a related member during the taxable year over the amount of interest from a related member includible in the gross income of the taxpayer for the taxable year.

- 4) Qualified interest expense – The amount of net interest paid or accrued to a related member in a taxable year not to exceed 30% of the taxpayer’s adjusted taxable income. This limitation does not apply to interest paid or accrued to a related member if one or more of the following applies:
 - a. Tax is imposed by the State under this Article on the related member with respect to the interest.
 - b. The related member pays a net income tax or gross receipts tax to another state with respect to the interest income.
 - c. The related member is organized under the laws of a foreign country that has a comprehensive income tax treaty with the United States and that country taxes the interest income at a rate equal to or greater than G.S. 105-130.3.
 - d. The related member is a bank.

(Effective for taxable years beginning on or after January 1, 2016; HB 97, s. 32.13(f), S.L. 2015-241. Superseded by S.L 2016-5.)

G.S. 105-130.7B(b) – Related Member Limitation on Qualified Interest -

Definitions: The 2016 General Assembly amended this subsection twice. The first amendment made a technical change to the definition of “qualified interest expense” to make the definition of deductible interest expense paid between parent and subsidiary corporations consistent for in-State and out-of-state companies. The definition now clarifies that interest expense paid or accrued to a related member meets the exception to the general limitation if either North Carolina or another state imposes an income tax or gross receipts tax on the interest income of the related member interest. This technical change also clarifies that interest paid to a related member that is eliminated in a combined or consolidated return with the related member does not qualify for the exception to the general limitation.

The second amendment further modified the definition of “qualified interest expense” and created two new definitions. As amended, the State’s related corporation qualified interest expense deduction is reduced from 30% to 15% of a taxpayer’s adjusted taxable income. Thus, the 30% limitation was never applicable due to this change, and the 15% limitation was only applicable to the 2016 tax year due to a subsequent modification of the statute.

In addition, a new exception to the general limitation was added to allow an interest deduction for a portion of a corporation’s related member interest expense that represents its proportional share of amounts of interest traceable through related members and ultimately paid to an unrelated party.

As amended, the subsection reads:

- 4) Qualified interest expense – The amount of net interest paid or accrued to a related member in a taxable year with the amount limited to the greater of (i) fifteen percent (15%) of the taxpayer’s adjusted taxable income or (ii) the taxpayer’s proportionate share of interest paid or accrued to a person who is not a related member during the same taxable year. This limitation does not apply to interest paid or accrued to a related member if one or more of the following applies:
 - a. Tax is imposed by the State under this Article on the related member with respect to the interest.
 - b. The related member pays a net income tax or gross receipts tax to another state with respect to the interest income.
 - c. The related member is organized under the laws of a foreign country that has a comprehensive income tax treaty with the United States and that country taxes the interest income at a rate equal to or greater than G.S. 105-130.3.
 - d. The related member is a bank.
- 5) Proportionate share of interest – The amount of taxpayer's net interest expense paid or accrued directly to or through a related member to an ultimate payer divided by the total net interest expense of all related members that is paid or accrued directly to or through a related member to the same ultimate payer, multiplied by the interest paid or accrued to a person who is not a related member by the ultimate payer. Any amount that is distributed, paid, or accrued directly or through a related member that is not treated as interest under this Part does not qualify.
- 6) Ultimate payer – A related member that receives or accrues interest from related members directly or through a related member and pays or accrues interest to a person who is not a related member.

(First amendment is effective for taxable years beginning on or after January 1, 2016; SB 729, s. 1.8(a), S.L. 2016-5; second amendment is effective for taxable years beginning on or after January 1, 2016; SB 729, s. 1.8(b), S.L. 2016-5.)

G.S. 105-130.7B(b) – Related Member Limitation on Qualified Interest Provisions

Definitions: The 2017 General Assembly further amended this subsection concerning limitations on qualified interest for certain indebtedness to modify the definition of “qualified interest expense” as the amount of net interest expense paid or accrued to a related member in a taxable year with the amount limited to the taxpayer’s proportionate share of interest paid or accrued to a person who is not a related member during the same taxable year. Previously, this subsection limited the amount to the greater of i) 15% of the taxpayer’s adjusted taxable income or ii) the taxpayer’s proportionate share. This amendment also makes a conforming change to repeal the definition in subdivision (1) of “adjusted taxable income” for purposes of this section. Thus, related member

interest not otherwise qualifying for an exception or meeting the requirements under the proportional share rules is not deductible.

The amendment also added a provision that restricts the Department from applying IRS section 385 regulations in determining whether a nominal debt instrument creates deductible interest allowable under this section.

(Effective for taxable years beginning on or after January 1, 2017; SB 628, s. 1.6(a) & (b), S.L. 2017-204.)

G.S. 105-130.20 – Federal Corrections: This section was rewritten to include corrections to a federal tax credit that affects the amount of State tax payable as a reason that a taxpayer must file a return reflecting the corrected or determined amounts with the Secretary within six months after being notified by the federal government. This amendment conforms the State corporate income tax requirements to a change that was made for the State individual income tax requirements in 2013.

(Effective June 21, 2017; HB 59, s. 4(a), S.L. 2017-39.)

INSURANCE GROSS PREMIUMS TAX – ARTICLE 8B

G.S. 58-6-25 – Insurance Regulatory Charge: The percentage rate to be used in calculating the insurance regulatory charge under this statute is six and one-half percent (6.5%) for the 2017 and 2018 calendar years. This charge is a percentage of gross premiums tax liability.

(Effective July 1, 2017; SB 257, s. 22.1, S.L. 2017-57.)

G.S. 105-228.5(d)(3) – Additional Rate on Property Coverage Contracts: This subdivision was amended to clarify the Department's long-standing position that the additional tax imposed on property coverage contracts in this subdivision is a special purpose assessment based on gross premiums and not a gross premiums tax.

It also provides some relief to a taxpayer that failed to properly take an installment or carryforward of a business and energy credit. A taxpayer that elected to take a business and energy tax credit against the gross premiums tax for a taxable year prior to January 1, 2017, may take an installment or carryforward of the credit against the additional tax for taxable years beginning before January 1, 2017, but may not take an installment or carryforward of the credit against the additional tax for taxable years beginning on or after January 1, 2017.

A taxpayer may apply to the Department for a refund of any excess tax paid on or before January 1, 2018. A request for refund received after this date is barred.

(Effective August 11, 2017; SB 628, s. 1.11, S.L. 2017-204.)

ANNUAL REPORT - SECRETARY OF STATE

G.S. 55-16-22 – Annual Report: This section was amended to remove the Department of Revenue from the annual report process. The annual report required by G.S. 55-16-22 must be filed directly with the Secretary of State. Previously, the annual report could be filed with the Secretary of Revenue in paper form or alternatively with the Secretary of State in electronic form. Starting with the 2017 corporate tax return, there will no longer be a line designated for payment of the annual report fee.

(Effective August 11, 2017; SB 628, s. 1.13, S.L. 2017-204.)

EXCISE TAX

SECTION

3

PRIVILEGE TAXES – ARTICLE 2

G.S. 105-41(a) – Attorneys-at-Law and Other Professionals: Subdivision (2) is amended to add language in the statute extending the requirement for a privilege license to massage and bodywork therapists. This amendment to the privilege license requirement is effective upon enactment and applies to taxable years beginning on or after July 1, 2018.

(Effective July 20, 2017; SB 548, s. 4, S.L. 2017-151)

G.S. 105-41(a) – Attorneys-at-Law and Other Professionals: Subdivision (11) is amended to update language in the statute to clarify the requirement for a privilege license extends to funeral directors, embalmers, and funeral service licensees.

(Effective June 21, 2017; HB 59, s. 9, S.L. 2017-39)

TOBACCO PRODUCTS TAX – ARTICLE 2A

G.S. 105-113.4A – Licenses: This statute is rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation. Prior language referred to both circumstances as a cancellation. Additionally, terminology changes are made adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.3(a), S.L. 2017-204)

G.S. 105-113.4B – Cancellation or Revocation of a License: This statute is retitled and rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation. Prior language referred to both circumstances as a cancellation. Additionally, terminology changes are made adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.3(b), S.L. 2017-204)

G.S. 105-113.29 – Unlicensed Place of Business: This statute is rewritten to clarify the requirement to obtain the appropriate tobacco product license prior to engaging in

business within this State extends to the sale or offering for sale of both cigarettes and other tobacco products.

(Effective June 21, 2017; HB 59, s. 10, S.L. 2017-39)

ALCOHOLIC BEVERAGE LICENSE AND EXCISE TAXES—ARTICLE 2C

G.S. 105-113.70 – Issuance, Duration, Transfer of License: Subsection (a) regarding the information an ABC permittee is required to provide to obtain a local license is rewritten to require issuance of a local license if the applicant provides all of the following: “(i) a copy of the most recently completed State application form for an ABC permit exclusive of any attachments, (ii) the ABC permit for visual inspection, and (iii) payment of the prescribed tax.”

(Effective June 29, 2017; SB 155, s. 17, S.L. 2017-87)

TAX ON MOTOR CARRIERS – ARTICLE 36B

G.S. 105-449.37(a)(1) – International Fuel Tax Agreement: The definition of International Fuel Tax Agreement is rewritten to adopt the Agreement as amended as of January 1, 2017.

(Effective June 21, 2017; HB 59, s. 11, S.L. 2017-39)

G.S. 105-449.37(c) – Definitions; Tax Liability; Application: This subsection is rewritten to clarify that motor carriers must submit an application, rather than register, with the Department to obtain the appropriate license and decals to operate a qualified motor vehicle in this State.

(Effective June 21, 2017; HB 59, s. 11, S.L. 2017-39)

G.S. 105-449.44(c) – Vehicles: This subsection is rewritten to clarify terminology that a motor carrier’s qualified motor vehicle must be licensed, rather than registered, with the Department in order to be consistent with terminology used in the IFTA Articles of Agreement and to distinguish the fuel tax license from the vehicle registration.

(Effective August 11, 2017; SB 628, s. 4.4(a), S.L. 2017-204)

G.S. 105-449.45(b) – Exemptions: This subsection is rewritten to clarify terminology that a motor carrier’s qualified motor vehicle must be licensed, rather than registered, with the Department in order to be consistent with the IFTA Articles of Agreement and to distinguish the fuel tax license from the vehicle registration.

(Effective August 11, 2017; SB 628, s. 4.4(b), S.L. 2017-204)

G.S. 105-449.47 – Licensure of Vehicles: This statute is retitled and rewritten to clarify terminology that a motor carrier’s qualified motor vehicle must be licensed, rather than registered, with the Department in order to be consistent with the IFTA Articles of Agreement and to distinguish the fuel tax license from the vehicle registration. Additionally, the statute is rewritten to clarify that a recreational vehicle is required to be licensed with the Department and obtain decals as a qualified motor vehicle when the recreational vehicle is used in connection with any business endeavor in order to be consistent with the IFTA Articles of Agreement.

(Effective August 11, 2017; SB 628, s. 4.4(c), S.L. 2017-204)

105-449.47A – Denial of License Application and Decal Issuance: This statute is retitled and rewritten to clarify terminology that a motor carrier’s qualified motor vehicle must be licensed, rather than registered, with the Department in order to be consistent with the IFTA Articles of Agreement and to distinguish the fuel tax license from the vehicle registration. Additionally, this statute is rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation.

(Effective August 11, 2017; SB 628, s. 4.4(d), S.L. 2017-204)

105-449.49(a) – Issuance: This subsection is rewritten to clarify terminology that a temporary permit allows a motor carrier to operate in the State without being licensed, rather than registered, with the Department.

(Effective August 11, 2017; SB 628, s. 4.4(e), S.L. 2017-204)

105-449.51 – Violations Declared to be Misdemeanors: This statute is retitled and rewritten to clarify terminology that a motor carrier’s qualified motor vehicle must be licensed, rather than registered, with the Department in order to be consistent with the IFTA Articles of Agreement and to distinguish the fuel tax license from the vehicle registration.

(Effective August 11, 2017; SB 628, s. 4.4(f), S.L. 2017-204)

105-449.52 – Civil Penalties Applicable to Motor Carriers: This statute is retitled and rewritten to clarify terminology that a motor carrier’s qualified motor vehicle must be licensed, rather than registered, with the Department in order to be consistent with the IFTA Articles of Agreement and to distinguish the fuel tax license from the vehicle registration.

(Effective August 11, 2017; SB 628, s. 4.4(g), S.L. 2017-204)

GASOLINE, DIESEL, AND BLENDS – ARTICLE 36C

G.S. 105-449.60 – Definitions: The following definitions within this statute are amended as follows:

(4) Biodiesel provider. - Subdivision (b) of the definition is amended to clarify that a person who imports biodiesel by marine vessel is considered a biodiesel provider.

(14) Diversion. – The definition is amended to clarify that diversions include all out-of-state movements not listed on the original bill of lading, and are not limited to motor fuel from a terminal.

(20) Fuel alcohol provider. – Subdivision (b) of the definition is amended to clarify that a person who imports biodiesel by marine vessel is considered a fuel alcohol provider.

(22) Gasoline. – The definition is amended to clarify the various blend stocks that are taxable as petroleum components of gasoline, by adopting by reference the list of gasoline blend stocks in the federal Treasury Regulation Section 48-4081-1(c)(3).

(46) Supplier. – The definition is amended to remove refiners from the definition thereby clarifying that a refiner who engages in supplier activity must be licensed as both a refiner and a supplier.

(47) System transfer. – The definition is amended to repeal subdivision (b) as the transfer of fuel grade ethanol by transport truck or railroad tank car is not treated as a system transfer.

(Effective June 21, 2017; HB 59, s. 12, S.L. 2017-39)

G.S. 105-449.60 – Definitions: The following new definition is added to the statute to read as follows:

“(9a) Bulk storage. – A container or tank used to store bulk purchase of motor fuel or alternative fuel of 42 gallons or more.”

(Effective June 21, 2017; HB 59, s. 12; S.L. 2017-39)

G.S. 105-449.65(b) – Multiple Activity: This subsection is rewritten to remove unnecessary language. Biodiesel providers are included in the Supplier definition, therefore any licensed supplier, including biodiesel providers, are also considered to be licensed blenders.

(Effective June 21, 2017; HB 59, s. 13, S.L. 2017-39)

G.S. 105-449.68 – Restrictions on Who Can Get a License as a Distributor: This statute is rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation. Prior language referred to both circumstances as a cancellation.

(Effective August 11, 2017; SB 628, s. 4.5(a), S.L. 2017-204)

G.S. 105-449.69(e) – Export Activity: This subsection is rewritten to remove unnecessary language. Licensed exporters no longer pay North Carolina directly for the taxes on exported fuel, but rather the exporters pay their supplier, who then remit the tax to the applicable destination state. As exporters are no longer remitting taxes directly to the State, the requirement that licensee’s designate an agent within North Carolina is no longer necessary.

(Effective June 21, 2017; HB 59, s. 14, S.L. 2017-39)

105-449.72 – Bond or Letter of Credit Required as a Condition of Obtaining and Keeping Certain Licenses or Applying for Certain Refunds: This statute is rewritten to make terminology changes adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.5(b), S.L. 2017-204)

105-449.73 – Denial of License Application: This statute is retitled and rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation. Prior language referred to both circumstances as a cancellation.

Effective August 11, 2017; SB 628, s. 4.5(c), S.L. 2017-204)

G.S. 105-449.74 – Issuance of License: This statute is rewritten to make terminology changes adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.5(d), S.L. 2017-204)

G.S. 105-449.75 – Licensee Must Notify the Secretary of Discontinuance of Business: This statute is retitled and rewritten to make terminology changes adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.5(e), S.L. 2017-204)

G.S. 105-449.76 – Cancellation or Revocation of License: This statute is rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation. Prior language referred to both circumstances as a cancellation.

Additionally, terminology changes are made adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.5(f), S.L. 2017-204)

G.S. 105-449.77(b) – Lists: This subsection is rewritten to make terminology changes adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.5(g), S.L. 2017-204)

G.S. 105-449.81(3b) – Excise Tax on Motor Fuel: This subsection is rewritten to clarify that the excise tax on fuel grade ethanol and biodiesel fuel is due upon importation to this State, including importations by marine vessel.

This subsection was further amended to clarify that the tax upon importation of fuel grade ethanol or biodiesel by marine vessel only applies when the ethanol or biodiesel is delivered to a non-registered IRS terminal.

(Effective June 21, 2017; HB 59, s. 15, S.L. 2017-39)

(Effective August 11, 2017; SB 628, s. 6.3(a), S.L. 2017-204)

G.S. 105-449.92 – Notice to Suppliers of Cancellation, Revocation, or Reissuance of Certain Licenses; Effect of Notice: This statute is retitled and rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation. Prior language referred to both circumstances as a cancellation.

(Effective August 11, 2017; SB 628, s. 4.5(h), S.L. 2017-204)

G.S. 105-449.97(a) – Taxes Not Remitted: This subsection is rewritten to make terminology changes adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.5(i), S.L. 2017-204)

G.S. 105-449.98(b) – Notice of Fuel Received: This subsection is rewritten to make terminology changes adjusting the term “license holder” to “licensee.”

(Effective August 11, 2017; SB 628, s. 4.5(j), S.L. 2017-204)

G.S. 105-449.104 – Use of Name and Account Number on Return: This statute is rewritten to make terminology changes adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.5(k), S.L. 2017-204)

G.S. 105-449.110(a) – Decision: This subsection is rewritten to make conforming changes on the process for issuing a proposed denial of a request for refund and to clarify the applicability of the administrative procedures of Article 9 of the Chapter 105.

(Effective August 11, 2017; SB 628, s. 4.5(l), S.L. 2017-204)

G.S. 105-449.115 – Shipping Documents Required to Transport Motor Fuel by Railroad Tank Car or Transport Truck: Subdivision (d)(3) of this statute regarding duties of a transporter to report the diversion of motor fuel from this State to another is rewritten to clarify that the motor fuel diversion notification requirement and receipt of the confirmation number is accomplished in a manner designated by the Secretary. This change is made to clarify that diversion numbers are obtained by accessing the Trac3 web application through Fueltrac.

(Effective June 21, 2017; HB 59, s. 16; S.L. 2017-39)

ALTERNATIVE FUEL – ARTICLE 36D

105-449.134 – Denial, Revocation, or Cancellation of License: This statute is retitled and rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation. Prior language referred to both circumstances as a cancellation.

(Effective August 11, 2017; SB 628, s. 4.6(a), S.L. 2017-204)

105-449.135 – Issuance of License; Notification of Changes: This statute is rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation. Prior language referred to both circumstances as a cancellation. Additionally, terminology changes are made adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.6(b), S.L. 2017-204)

105-449.139 – Miscellaneous Provisions: This statute is rewritten to make terminology changes adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.6(c), S.L. 2017-204)

GASOLINE and OIL INSPECTION – CHAPTER 119, ARTICLE 3

G.S. 119-18 – Inspection Tax and Distribution of the Tax Proceeds: Subsection (b) relating to the application of the proceeds of the inspection tax is amended to reference the codification of the Department of Transportation’s bridge program as G.S. 136-76.2.

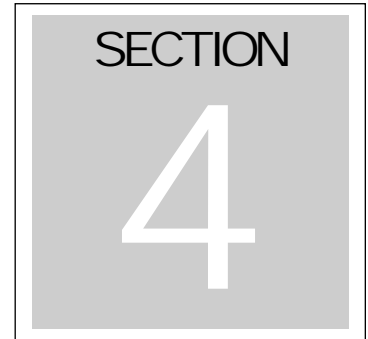
No changes were made to the allocation of inspection tax proceeds credited to the bridge program.

(Effective July 1, 2017; SB 257, s. 34.10(c); S.L. 2017-57)

G.S. 119-19 – Authority of Secretary to Cancel or Revoke a License: This statute is retitled and rewritten to clarify terminology differentiating a voluntary license cancellation and a Department initiated license revocation. Prior language referred to both circumstances as a cancellation. Additionally, terminology changes are made adjusting the term “license holder” to “licensee” throughout.

(Effective August 11, 2017; SB 628, s. 4.6(d), S.L. 2017-204)

SALES AND USE TAX



SALES AND USE TAX – ARTICLE 5

DEFINITIONS

G.S. 105-164.3 – Definitions: The 2016 and 2017 General Assembly added new defined terms and amended multiple definitions for existing defined terms. The changes and their effective dates are as follows:

Freestanding Appliance – (1d). The definition of the term is added and defined as “[a] machine commonly thought of as an appliance operated by gas or electric current. Examples include installation of a dishwasher, washing machine, clothes dryer, refrigerator, freezer, microwave, and range, regardless of whether the range is slide-in or drop-in.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

Bundled Transaction – (1i). The definition of the term as amended is “[a] retail sale of two or more distinct and identifiable products, at least one of which is taxable and one of which is exempt, for one nonitemized price. *The term does not apply to real property and services to real property.* [Emphasis added.] Products are not sold for one nonitemized price if an invoice or another sales document made available to the purchaser separately identifies the price of each product. A bundled transaction does not include the retail sale of any of the following:
. . .”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

Capital Improvement – (2c). The term was previously defined in G.S. 105-164.4H(e), which is now repealed. As amended, this term is added and defined as “[o]ne or more of the following:

- a. New construction, reconstruction, or remodeling.
- b. Performance of work that requires the issuance of a permit under the State Building Code, other than repair or replacement of electrical components, gas logs, water heater, and similar individual items that are not part of new construction, reconstruction, or remodeling.
- c. Installation of utilities on utility-owned land, right-of-way, or easement, notwithstanding that charges for such may be included in the gross receipts derived from services subject to the combined general rate under G.S. 105-164.4.
- d. Installation of equipment or a fixture that is attached to real property and that meets one or more of the following conditions:
 - 1. Is capitalized and depreciated under Generally Accepted Accounting Principles or International Financial Reporting Standards.
 - 2. Is depreciated under the Code.
 - 3. Is expensed under Section 179 of the Code.
- e. Painting or wallpapering of real property, except where painting or wallpapering is incidental to the repair, maintenance, and installation service.
- f. Replacement or installation of a septic tank system, siding, roof, plumbing, electrical, commercial refrigeration, irrigation, sprinkler, or other similar system. The term does not include the repair, replacement, or installation of electrical or plumbing components, water heaters, gutters, and similar individual items that are not part of new construction, reconstruction, or remodeling.
- g. Replacement or installation of a heating or air conditioning unit or a heating, ventilation, or air conditioning system. The term does not include the repair, replacement, or installation of gas logs, water heaters, pool heaters, and similar individual items that are not part of new construction, reconstruction, or remodeling.
- h. Replacement or installation of roads, driveways, parking lots, patios, decks, and sidewalks.
- i. Services performed to resolve an issue that was part of a real property contract if the services are performed within six months of completion of the real property contract or, for new construction, within 12 months of the new structure being occupied for the first time.
- j. Landscaping.
- k. Addition or alteration to real property that is permanently affixed or installed to real property and is not an activity listed in subdivision (33f) of this section as a repair, maintenance, and installation service.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

Clothing – (3) - This term was readopted and is defined as “[a]ll human wearing apparel suitable for general use.”

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s.38.5.(d), S.L. 2016-94.)

Landscaping – (16e). This term is retroactively amended from “landscaping service” to “landscaping” and the definition of the term is amended as “[a] service that modifies the living elements of an area of land. Examples include the installation of trees, shrubs, flowers on land; tree trimming; mowing; and the application of seed, mulch, pine straw, or fertilizer to an area of land. The term does not include services to trees, shrubs, flowers, and similar items in pots or in buildings.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

Landscaping Service – (16e). This term was added and was defined as “[a] service to maintain or improve lawns, yards, or ornamental plants and trees. Examples include the installation of trees, shrubs, or flowers; tree trimming; lawn mowing; and the application of seed, mulch, pesticide, or fertilizer to a lawn or yard.”

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204 for “landscaping” above; HB 1030, s. 38.5.(d), S.L. 2016-94.)

Large Fulfillment Facility – (16f). This term is added and is defined as “[a] facility that satisfies both of the following conditions:

- a. The facility is used primarily for receiving, inventorying, sorting, repackaging, and distributing finished retail products for the purpose of fulfilling customer orders.
- b. The Secretary of Commerce has certified that an investment of private funds of at least one hundred million dollars (\$100,000,000) has been or will be made in real and tangible personal property for the facility within five years after the date on which the first property investment is made and that the facility will achieve an employment level of at least 400 within five years after the date the facility is placed into service and maintain that minimum level of employment throughout its operation.”

(Effective July 1, 2017, and applies to sales on or after that date; SB 257, s. 38.9.(a), S.L. 2017-57.)

Mixed Transaction Contract – (20b). This term is added and defined as “[a] contract that includes both a real property contract for a capital improvement and a repair, maintenance, and installation service that is not related to the capital improvement.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

Motor Vehicle Service Contract – (23a). This term as amended is “[a] service contract for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle when sold by a motor vehicle dealer, by a motor vehicle service agreement company, or by a motor vehicle dealer on behalf of a motor vehicle service

agreement company. For purposes of this subdivision, the term ‘motor vehicle dealer’ has the same meaning as defined in G.S. 20-286 and the term ‘motor vehicle service agreement company’ is a person other than a motor vehicle dealer that is an obligor of a service contract for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle and who is not an insurer.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

The term “motor vehicle service contract” was added and was defined as “[a] service contract sold by a motor vehicle dealer or by or on behalf of a motor vehicle service agreement company for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle. For purposes of this subdivision, the term ‘motor vehicle dealer’ has the same meaning as defined in G.S. 20-286 and the term ‘motor vehicle service agreement company’ has the same meaning as defined in G.S. 66-370.”

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(d), S.L. 2016-94.)

NAICS – (23c). This term was previously codified as G.S. 105-164.3(23a).

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s.8.5.(d), S.L. 2016-94.)

New Construction – (24a). This term is added in this subsection and is defined as “[c]onstruction of or site preparation for a permanent new building, structure, or fixture on land or an increase in the square footage of an existing building, structure, or fixture on land.” This term was previously in G.S. 105-164.4H(e); however, G.S. 105-164.4H(e) is repealed.

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

Protective equipment – (31). This term is repealed as it was not applicable to other laws in the current sales and use tax statutes.

(Effective June 21, 2017; HB 59, s. 5.,S.L. 2017-39.)

Real Property – (33d). This term is amended and is defined as “[a]ny one or more of the following:

- a. Land.
- b. Building or structure on land.
- c. Permanent fixture on land.
- d. A manufactured home or a modular home on land.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

The term “real property” was defined as “[a]ny one or more of the following:

- a. Land.
- b. Building or structure on land.
- c. Permanent fixture on land.
- d. A manufactured home or a modular home that is placed on a permanent foundation.”

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030; s. 38.5.(d), S.L. 2016-94.)

Real Property Contract – (33e). This term as amended is “[a] contract between a real property contractor and another person to perform a capital improvement to real property.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

The definition of “real property contract” was added and was defined as “[a] contract between a real property contractor and another person to perform construction, reconstruction, or remodeling with respect to a capital improvement to real property.”

(Effective January 1, 2017, and applies to contracts on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(d), S.L. 2016-94.)

Real Property Contractor – (33f). This term as amended is “[a] person that contracts to perform a real property contract in accordance with G.S. 105-164.4H. The term includes a general contractor, a subcontractor, or a builder for purposes of . . . Article [5 of Chapter 105 of the North Carolina General Statutes].”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

The term “real property contractor” was re-codified from G.S. 105-164.3(33d) to G.S. 105-164.3(33f) and the definition as amended was “[a] person that contracts to perform a real property contract in accordance with G.S. 105-164.4H. The term includes a general contractor, a subcontractor, or a builder for purposes of G.S. 105-164.4H.”

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030; s. 38.5.(d), S.L. 2016-94.)

Reconstruction – (33g). This term is added in this subsection and is defined as, “[r]ebuild or construct again a prior existing permanent building, structure, or fixture on

land and may include a change in the square footage from the prior existing building, structure, or fixture on land.” This term was previously in G.S. 105-164.4H(e); however, G.S. 105-164.4H(e) was repealed.

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

Related Member – (33h). This term is re-codified from G.S. 105-164.3(33g) to G.S. 105-164.3(33h).

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

The term “related member” was previously re-codified from G.S. 105-164.3(33e) to G.S. 105-164.3(33g).

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s.38.5.(d), S.L. 2016-94.)

Remodeling – (33i). This term is added and is defined as “[a] transaction comprised of multiple services performed by one or more persons to restore, improve, alter, or update real property that may otherwise be subject to tax as repair, maintenance, and installation services if separately performed. The term includes a transaction where the internal structure or design of one or more rooms or areas within a room or building are substantially changed. The term does not include a single repair, maintenance, and installation service. The term does not include a transaction where the true purpose is a repair, maintenance, and installation service no matter that another repair, maintenance, and installation service is performed that is incidental to the true purpose of the transaction; examples include repair of sheetrock that includes applying paint, replacement of cabinets that includes installation of caulk or molding, and the installation of hardwood floors that includes installation of shoe molding.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

The term “remodeling” was previously in G.S. 105-164.4H(e); however, G.S. 105-164.4H(e) is repealed.

(Effective January 1, 2017, and applies to contracts on or after that date through August 10, 2017, except as provided by S.L. 2017-240; HB 1030, s.38.5.(d), S.L. 2016-94.)

Remote Sale – (33j). This term is re-codified from G.S. 105-164.3(33h) to G.S. 105-164.3(33j).

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

This term “remote sale” was previously re-codified from G.S. 105-164.3(33f) to G.S. 105-164.3(33h).

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030; s.38.5.(d), S.L. 2016-94.)

Renovation – (33k). This term is added and is defined as having the “[s]ame meaning as the term ‘remodeling’.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

The term “renovation” was previously included in the definition of “remodeling” in G.S. 105-164.4H(e); however, G.S. 105-164.4H(e) is repealed.

(Effective January 1, 2017, and applies to contracts on or after that date through August 10, 2017, except as provided by S.L. 2017-240; HB 1030, s.38.5.(d), S.L. 2016-94.)

Repair, Maintenance, and Installation Services – (33l). The definition of the term is amended and is defined as “[t]he term includes the activities listed in this subdivision and applies to tangible personal property, motor vehicle, digital property, and real property. The term does not include services used to fulfill a real property contract taxed in accordance with G.S. 105-164.4H:

- a. To keep or attempt to keep property or a motor vehicle in working order to avoid breakdown and prevent deterioration or repairs. Examples include to clean, wash, or polish property.
- b. To calibrate, refinish, restore, or attempt to calibrate, refinish, or restore property or a motor vehicle to proper working order or good condition. This activity may include replacing or putting together what is torn or broken.
- c. To troubleshoot, identify, or attempt to identify the source of a problem for the purpose of determining what is needed to restore property or a motor vehicle to proper working order or good condition. *The term includes activities that may lead to the issuance of an inspection report.*
- d. To install, apply, connect, adjust, or set into position tangible personal property, digital property, or a motor vehicle. *The term includes floor refinishing and the installation of carpet, flooring, floor coverings, windows, doors, cabinets, countertops, and other installations where the item being installed may replace a similar existing item. The replacement of more than one of a like-kind item, such as replacing one or more windows, is a single repair, maintenance, and*

installation service. The term does not include an installation defined as a capital improvement under subdivision (2c)d. of this section.

- e. To inspect or monitor property or a motor vehicle, but does not include security or similar monitoring services for real property.” [Emphasis added.]

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

The term “repair, maintenance, and installation services” was re-codified from G.S. 105-164.3(33g) to G.S. 105-164.3(33i), and the definition as amended was “[t]he term includes the activities listed in this subdivision and applies to tangible personal property, motor vehicle, digital property, and real property except tangible personal property or digital property installed or applied by a real property contractor pursuant to a real property contract taxed in accordance with G.S.105-164.4H:

- a. To keep or attempt to keep property or a motor vehicle in working order to avoid breakdown and prevent *deterioration or repairs. Examples include to clean, wash, or polish property.*
- b. To calibrate, *refinish*, restore, or attempt to *calibrate, refinish, or restore* property or a motor vehicle to proper working order or good condition. This activity may include replacing or putting together what is torn or broken.
- c. To troubleshoot, identify, or attempt to identify the source of a problem for the purpose of determining what is needed to restore property or a motor vehicle to proper working order or good condition.
- d. To *install, apply, connect, adjust, or set into position* tangible personal property, *digital property, or a motor vehicle.*
- e. *To inspect or monitor property or a motor vehicle, but does not include security or similar monitoring services for real property.”* [Emphasis added.]

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017 and to gross receipts derived from repair, maintenance, and installation services provided on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(d), S.L. 2016-94.)

Retail Trade – (34a). This term was repealed.

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s.38.5.(d), S.L. 2016-94.)

Retailer – (35). The definition of the term is amended to provide the term does not include a real property contractor. Additionally, as amended, the term **includes a person whose only business activity is providing repair, maintenance, and installation services.** The definition as amended is “[a]ny of the following persons:

- a. A person engaged in business of making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property for storage, use, or consumption in this State, or services sourced to 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 regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as 'retailers' for the purpose of this Article.

- b. A person, *other than a real property contractor*, engaged in business of delivering, erecting, installing, or applying tangible personal property or digital property for use in this State.
- c. A person engaged in business of making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.
- d. A person, other than a facilitator, required to collect the State tax levied under [Article 5 of Chapter 105 of the North Carolina General Statutes] or the local taxes levied under Subchapter VIII of [Chapter 105 of the North Carolina General Statutes] and under Chapter 1096 of the 1967 Session Laws." [Emphasis added.]

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s. 8.5.(d), S.L. 2016-94.)

Retailer-Contractor – (35a). The definition of the term as amended is “[a] person that acts as a retailer when it makes a sale at retail and as a real property contractor when it performs a real property contract.”

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s.38.5.(d), S.L. 2016-94.)

Sale or Selling – (36). The definition of this term is amended to clarify that the term applies to an item, service, or transaction subject to tax under the sales and use tax statutes.

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s. 38.5.(d), S.L. 2016-94.)

Secondary Metals Recycler – (37g). This term is added and is defined as “[a] person that gathers and obtains ferrous metals, nonferrous metals, and items that have served their original economic purpose and that converts them by processes, including sorting, cutting, classifying, cleaning, baling, wrapping, shredding, or shearing into a new or different product for sale consisting of prepared grades.”

(Effective July 1, 2018, and applies to sales on or after that date; SB 257, s. 38.8.(d), S.L. 2017-57.)

Service Contract – (38b). The definition of this term is amended as “[a] contract where the obligor under the contract agrees to maintain, monitor, inspect, repair, or provide another service included in the definition of repair, maintenance, and installation service

to digital property, tangible personal property, or real property for a period of time or some other defined measure. The term does not include a single repair, maintenance, or installation service, but does include a contract where the obligor may provide a service included in the definition of repair, maintenance, and installation services as a condition of the contract. The term includes a service contract for a pool, fish tank, or similar aquatic feature and a home warranty. Examples include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair agreement, or a similar agreement or contract.” [Emphasis added.]

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.1., S.L. 2017-204.)

The definition of the term “service contract” was previously amended to include a contract “where the obligor under the contract agrees to *maintain, monitor, inspect, or repair digital property or tangible personal property for a period of time or some other defined measure*, regardless of whether the property becomes a part of or is *applied* to real property. *The term does not include a single repair, maintenance, or installation service. The term includes a service contract for a pool, fish tank, or similar aquatic feature and a home warranty.* Examples include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract.” [Emphasis added.]

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(d), S.L. 2016-94.)

Storage – (44). This term is amended to remove the statutory exclusions from the definition of “storage.” The definition as amended is “[t]he keeping or retention in this State for any purpose, except sale in the regular course of business, of tangible personal property or digital property *for any period of time* purchased from a person in business.” [Emphasis added.]

(Effective January 1, 2017; SB 729, s. 3.2.(b), S.L. 2016-5.)

Streamlined Agreement – (45a). This term is amended to update the date in the definition to December 16, 2016. The term is further amended to update the date to May 11, 2017.

(Effective June 21, 2017; HB 59, s. 5., S.L. 2017-39. Further amendment effective August 11, 2017; SB 628, s. 2.9.(i), S.L. 2017-204.)

SALES AND USE TAX IMPOSITIONS

G.S. 105-164.4(a)(1) – Sales Tax Imposed at the General State Rate on Tangible Personal Property at Retail: This subdivision is amended to provide “[a] sale of a freestanding appliance is a retail sale of tangible personal property.” A “freestanding appliance” is defined in G.S. 105-164.3(1d).

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.2., S.L. 2017-204.)

This subdivision was amended to provide “[t]his subdivision does not apply to repair, maintenance, and installation services for real property; these services are taxable under subdivision (16) of this subsection.”

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(e), S.L. 2016-94.)

G.S. 105-164.4(a)(1a)b. – Sales Tax Imposed at the General State Rate on a Modular Home at Retail: This subdivision is amended to provide that “[t]he sale of a modular home to a modular homebuilder is considered a retail sale, no matter that the modular home may be used to fulfill a real property contract. . . .”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.2., S.L. 2017-204.)

G.S. 105-164.4(a)(13) – Sales Tax Imposed at the General State Rate on Tangible Personal Property Sold to a Real Property Contractor: This subdivision is repealed and is incorporated into G.S. 105-164.4(a)(16).

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.2., S.L. 2017-204.)

This subdivision is rewritten and states “[t]he general rate of tax applies to the sales price of an item or service subject to tax under . . . Article [5 of Chapter 105 of the North Carolina General Statutes] sold to a real property contractor for use by the real property contractor or to fulfill a real property contract. These sales are taxed in accordance with G.S. 105-164.4H.”

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(e), S.L. 2016-94.)

G.S. 105-164.4(a)(16) – Sales Tax Imposed on Repair, Maintenance, and Installation Services: G.S. 105-164.4(a)(16) is amended to provide that “[t]he general rate applies to the sales price of or the gross receipts derived from repair, maintenance, and installation services and *generally* includes any tangible personal property or digital property that becomes a part of or is applied to a purchaser’s property.

A mixed transaction contract and a real property contract are taxed in accordance with G.S. 105-164.4H.” [Emphasis added.]

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.2., S.L. 2017-204.)

This subdivision was previously amended to provide that “[t]he general rate applies to the sales price of or gross receipts derived from repair, maintenance, and installation services and *includes any tangible personal property or digital property that becomes a part of or is applied to a purchaser’s property.*” [Emphasis added.]

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(e), S.L. 2016-94.)

Tax Paid on Repair, Maintenance, and Installation Services Allowed Credit and Study: If the Secretary of Revenue determines that a retailer paid sales and use taxes on a product that becomes a part of or is applied to a purchaser’s property as part of a retail sale of taxable repair, maintenance, and installation services to real property that occurs on or after January 1, 2017 through June 30, 2018, the Secretary will allow the retailer to offset the sales tax liability due on the taxable repair, maintenance, and installation services by the amount of sales and use tax originally paid on the product. The retailer must be able to substantiate the amount of tax originally paid on the product by invoice or other documentation. Additionally, a retailer entitled to a credit for tax originally paid on a product as provided above, may reduce the taxable receipts for an applicable reporting period by the taxable purchase amount of the product on which tax was originally paid in lieu of a determination being made by the Secretary. The credit provision does not apply to a product stored, used, or consumed by the retailer unless the product becomes a part of or is applied to a purchaser’s property as part of a retail sale of repair, maintenance, and installation services to real property.

(Effective retroactively to January 1, 2017, and expires July 1, 2018; SB 628, s. 2.8.(a), S.L.2017-204.)

The Revenue Laws Study Committee is directed to study the feasibility of providing a retailer of taxable repair, maintenance, and installation services to real property the option of paying sales tax on the property used to fulfill the repair, maintenance, and installation service at the time the property is purchased and offsetting the sales tax liability on the taxable repair, maintenance, and installation service with the sales and use tax paid on the products. The NC General Assembly provided retailers this option until July 1, 2018.

The Revenue Laws Study Committee must recommend to the 2018 Regular Session of the 2017 General Assembly whether this option should be allowed on a permanent basis.

(Study is effective August 11, 2017; SB 628, s. 2.8.(b), S.L. 2017-204.)

G.S. 105-164.4B(a) – Sourcing General Principles: This subsection is amended and provides that “[t]he following principles apply in determining where to source the sale of a product. Except as otherwise provided in this section, a service is sourced where the purchaser can potentially first make use of the service. These principles apply regardless of the nature of the product, except as otherwise noted in this section:
. . .”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.3., S.L. 2017-204.)

G.S. 105-164.4D(a) – Bundled Transaction for Service Contract that Includes Two or More Services: Subdivision (6) that provided bundling provisions for a service contract that contained two or more services was repealed. Refer to the discussion under G.S. 105-164.4I(a1) for the application of sales and use taxes to a “mixed service contract.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.5.(a), S.L. 2017-204.)

Subsection (a) was amended and provided “[t]ax applies to the sales price of a bundled transaction unless one of the following applies:

- (6) Service Contract. – The bundle includes a contract for two or more services, one of which is subject to tax under . . . Article [5 of Chapter 105 of the North Carolina Statutes] and one of which is not subject to tax under . . . Article [5 of Chapter 105 of the North Carolina General Statutes]. The person must determine an allocated price for the taxable service portion of the contract in the bundle based on a reasonable allocation of revenue that is supported by the person’s business records kept in the ordinary course of business.” Where a person is unable to support an allocation of revenue in the business records kept in the ordinary course of business, the entire sales price of the bundled transaction is subject to sales or use tax.

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(f), S.L. 2016-94.)

G.S. 105-164.4G(f)(6) – Admission Charge for an Entertainment Activity Sponsored by a Farmer: Subdivision (6) is added and provides an exemption from sales and use tax for gross receipts derived from an admission charge to an

entertainment activity for “[a]n event sponsored by a farmer that takes place on farmland and is related to farming activities, such as a corn maze or a tutorial on raising crops or animals. For purposes of this exemption, a farmer is a person who holds a qualifying farmer sales tax exemption certificate and farmland is land that is enrolled in the present-use value program under G.S. 105-277.3”

(Effective retroactively to January 1, 2014; SB 628, s. 2.10.(a), S.L. 2017-204.)

G.S. 105-164.4H – Application of Sales and Use Tax to Real Property Contracts:

This section is substantially amended as follows:

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

“(a1) Substantiation. – Generally, services to real property are retail sales of or the gross receipts derived from, repair, maintenance, and installation services and subject to tax in accordance with G.S. 105-164.4(a)(16), unless a person substantiates that a transaction is subject to tax as a real property contract in accordance with subsection (a) of this section, subject to tax as a mixed transaction in accordance with subsection (d) of this section, or the transaction is not subject to tax. A person may substantiate that a transaction is a real property contract or a mixed transaction by records that establish the transaction is a real property contract or by receipt of an affidavit of capital improvement. The receipt of an affidavit of capital improvement, absent fraud or other egregious activities, establishes that the subcontractor or other person receiving the affidavit should treat the transaction as a capital improvement, and the transaction is subject to tax in accordance with subsection (a) of this section. A person that issues an affidavit of capital improvement is liable for any additional tax due on the transaction, in excess of tax paid on related purchases under subsection (a) of this section, if it is determined that the transaction is not a capital improvement but rather the transaction is subject to tax as a retail sale. A person who receives an affidavit of capital improvement from another person, 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. The Secretary may establish guidelines for transactions where an affidavit of capital improvement is not required, but rather a person may establish by records that such transactions are subject to tax in accordance with subsection (a) of this section.”

The subsection is amended as follows:

“(b) Retailer-Contractor. – This section applies to a retailer-contractor as follows:
(1) Acting as a real property contractor. – A retailer-contractor acts as a real property contractor when it contracts to perform a real property contract. A retailer-contractor that purchases tangible personal property or digital property to be installed or applied to real property or a service to fulfill the contract may purchase those items exempt from tax under a certificate of exemption pursuant to G.S. 105-164.28 provided the retailer-contractor also purchases inventory items or services from the seller for resale. When the property is withdrawn from inventory and installed or applied to real property, or when the service is deemed used, use tax must be accrued and paid on the retailer-contractor's purchase price of the property. Property that the retailer-contractor withdraws from inventory for use that does not become part of real property is also subject to the tax imposed by . . . Article [5 of Chapter 105 of the North Carolina General Statutes].”

The subsection is amended as follows:

“(c) Mixed Transaction Contract. – A mixed transaction contract is taxable as follows:
(1) If the allocated sales price of the taxable repair, maintenance, and installation services included in the contract is less than or equal to twenty-five percent (25%) of the contract price, then the repair, maintenance, and installation services portion of the contract, and the tangible personal property, digital property, or service used to perform those services, are taxable as a real property contract in accordance with this section.
(2) If the allocated sales price of the taxable repair, maintenance, and installation services included in the contract is greater than twenty-five percent (25%) of the contract price, then sales and use tax applies to the sales price of or the gross receipts derived from the taxable repair, maintenance, and installation services portion of the contract. The person must determine an allocated price for the taxable repair, maintenance, and installation services in the contract based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business. Any purchase of tangible personal property or digital property to fulfill the real property contract is taxed in accordance with this section.”

Subsection (b1) of G.S. 105-164.4H regarding joint and several liability is repealed and the provisions of G.S. 105-164.6(b) apply to a real property contract.

Subsection (e) of G.S. 105-164.4H is repealed; however the definitions have been included in G.S. 105-164.3.

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.4.(a) and 2.4.(b), S.L. 2017-204.)

G.S. 105-164.4H was substantially amended previously as follows:

- (a) **Applicability.** – A real property contractor is the consumer of the tangible personal property, *digital property*, or *service* that the real property contractor *purchases, installs* or applies for others *to fulfill a real property contract* and that becomes part of real *property or used to fulfill the contract*. A retailer engaged in business in the State shall collect [sales or use] tax on the sales price of the tangible personal property, *digital property*, or *service* sold at retail to a real property contractor unless a statutory exemption in G.S. 105-164.13 or G.S. 105-164.13E applies. Where a real property contractor purchases tangible personal property or *digital property* for storage, use, or consumption in this *State*, or a *service sourced to this State* and the [sales or use] tax due is not paid at the time of purchase, the provisions of G.S. 105-164.6 apply except as provided in subsection (b) of this section.
- (b) **Retailer-Contractor.** – This section applies to a retailer-contractor as follows:
- (1) **Acting as a real property contractor.** – A retailer- contractor acts as a real property *contractor when it contracts to perform a real property contract*. A retailer-contractor that purchases tangible personal property or *digital property* to be installed or applied to real property or a *service to fulfill the contract* may purchase *those* items exempt from tax under a certificate of exemption pursuant to G.S. 105-164.28 provided the retailer-contractor also purchases inventory items or *services* from the seller for resale. When the property is withdrawn from inventory and installed or applied to real property, or *when the service is deemed used*, use tax must be accrued and paid on the retailer-contractor's purchase price of the property. *Property* that the retailer-contractor withdraws from inventory for use that does not become part of real property is also subject to the [sales and use] tax imposed by . . . Article [5 of Chapter 105 of the North Carolina General Statutes].
- (2) **Acting as a retailer.** – *A retailer-contractor is acting as a retailer when it makes a sale at retail.*
- (b1) **Joint and Several Liability.** – If a retailer-contractor subcontracts any part of the real property contract, tax is payable by the subcontractor on the subcontractor's purchase of the tangible personal property or digital property that is installed or applied to real property or a service used to fulfill the contract. The retailer-contractor, the subcontractor, the owner of the real property, and the lessee of the real property, are jointly and severally liable for the tax. The liability of a retailer-contractor, a subcontractor, an owner, or lessee who did not purchase the property or service is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid.
- (c) **Erroneous Collection if Separately Stated.** – An invoice or other documentation issued to a *person* by a real property contractor shall not separately state any amount for *tax for a real property contract*. Any amount for tax separately stated on an invoice or other documentation given to a

person by a real property contractor is an erroneous collection and must be remitted to the Secretary

- (d) **Mixed Transaction Contract.** – A contract that includes both a real property contract for a capital improvement and repair, maintenance, and installation services is taxable as follows:
- (1) If the price of the taxable repair, maintenance, and installation services included in the contract does not exceed ten percent (10%) of the contract price, then the repair, maintenance, and installation services portion of the contract, and the tangible personal property, digital property, or service used to perform that service, are taxable as a real property contract in accordance with this section.
 - (2) If the price of the taxable repair, maintenance, and installation services included in the contract is equal to or greater than ten percent (10%) of the contract price, then sales and use tax applies to the taxable repair, maintenance, and installation services portion of the contract. The person must determine an allocated price for each taxable repair, maintenance, and installation service in the contract based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business. Any purchase of tangible personal property, digital property, or services to fulfill the real property contract are taxed in accordance with this section.
- (e) **Definitions.** – The following definitions apply in this Article:
- (1) **Capital improvement.** – An addition or alteration to real property that is new construction, reconstruction, or remodeling of a building, structure, or fixture on land that becomes part of the real property or is permanently installed or applied to the real property so that removal would cause material damage to the property or article itself. The term includes an addition or an alteration to real property for or by a lessee or tenant, provided it is intended to become a permanent installation and title to it vests in the owner or lessor of the real property immediately upon installation. The term does not include the replacement of a fixture in or on a building or structure unless the replacement is part of a remodeling. The term does not include a single repair, maintenance, or installation service. The term includes, but is not limited to, all of the following:
 - a. Removal of items from real property, such as debris, construction materials, asbestos, or excavation activities, including the removal of items from a structure such as a dumpster.
 - b. Performance of work that requires the issuance of a permit under the State Building Code, other than repair or replacement of electrical components, gas logs, water heater, and similar individual items that are not part of new construction, reconstruction, or remodeling.

- c. *Installation of underground utilities, notwithstanding that charges for such are included in the gross receipts derived from services subject to the combined general rate under G.S. 105-164.4.*
 - d. *Installation of equipment or fixture that is attached to real property so that removal of the item would cause physical, functional, or economic damage to the property and that is capitalized under one or more of the following: the Code, Generally Accepted Accounting Principles, or International Financial Reporting Standards.*
 - e. *Painting or wallpapering.*
 - f. *Replacement or installation of a roofing, septic tank, plumbing, electrical, commercial refrigeration, irrigation, sprinkler, or other similar system.*
 - g. *Replacement or installation of a heating, ventilation, and air conditioning unit or system.*
 - h. *Replacement or installation of roads, driveways, parking lots, and sidewalks.*
 - i. *Landscaping service.*
- (2) *New construction. – Construction of or site preparation for a permanent new building, structure, or fixture on land or an increase in the square footage of an existing building, structure, or fixture on land.*
- (3) *Reconstruction. – Rebuild or construct again a prior existing permanent building, structure, or fixture on land and may include a change in the square footage from the prior existing building, structure, or fixture on land.*
- (4) *Remodeling. – The process of improving or updating a permanent building, structure, or fixture on land or major portions thereof. The term includes renovation. [Emphasis added.]*

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(c) and 38.5.(g), S.L. 2016-94. Technical corrections were made to the language prior to the effective date; HB 1030, S.38.5.(c) and 38.5.(g), S.L. 2016-94; HB 805, s. 11.2., 11.3.(b) and 11.4.(a), S.L. 2016-123.)

G.S. 105-164.41(a1) – Mixed Service Contract: This subsection is added and provides “[a] service contract for real property that includes two or more services, one of which is subject to tax under . . . Article [5 of Chapter 105 of the North Carolina General Statutes] and one of which is not subject to tax under . . . Article [5 of Chapter 105 of the North Carolina General Statutes], is taxable in accordance with this subsection. Tax applies to the sales price of or gross receipts derived from a mixed service contract unless one of the following applies:

- (1) *Allocation. – The person determines an allocated price for the taxable portion of the service contract based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business. In this circumstance, tax applies to the allocated price of the taxable portion of the service contract.*

- (2) Ten percent (10%) test. – The allocated price of the taxable portion of the service contract does not exceed ten percent (10%) of the price of the contract.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.5.(b), S.L. 2017-204.)

MISCELLANEOUS ITEMS

G.S. 105-164.6(b) – Liability: This subsection is amended and reads as follows: “[t]he tax imposed by this section is payable by the person who purchases, leases, or rents tangible personal property or digital property or who purchases a service. If the property purchased becomes a part of real property in the State, the real property contractor, the retailer-contractor, the subcontractor, *the lessee*, and the owner are jointly and severally liable for the tax, except as provided in G.S. 105-164.4H(a) regarding receipt of an affidavit of capital improvement. The liability of a real property contractor, a retailer-contractor, a subcontractor, *a lessee*, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid.” [Emphasis added.] This section as amended provides that a lessee is jointly and severally liable for tax where property purchased becomes a part of real property in the State. Additionally, the section is amended to modernize the language and to include defined terms.

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.4.(c), S.L. 2017-204.)

G.S. 105-164.15A(a)(2) – General Rate Items: This subdivision is amended and reads as follows: “[t]he effective date of a tax change for tangible personal property, digital property, or services taxable under . . . Article [5 of Chapter 105 of the North Carolina General Statutes] is administered as follows:

. . .

- (2) For a taxable item that is not billed on a monthly or other periodic basis, a tax change applies to amounts received for items provided on or after the effective date, except amounts received for items purchased to fulfill a real property contract for a capital improvement entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date.”

The language was amended to replace the phrase “provided under a lump sum or unit price contract” with the phrase “purchased to fulfill a real property contract for a capital improvement” to conform the language of the section to be consistent with statutory language in other sections of the sales and use tax laws.

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.4.(d), S.L. 2017-204.)

G.S. 105-164.6(f)(2) – Registration for a Facilitator: This subdivision is amended to clarify that a facilitator that is liable for tax under Article 5 of Chapter 105 of the North Carolina General Statutes must obtain a certificate of registration.

(Effective June 21, 2017; HB 59, s. 6., S.L. 2017-39.)

G.S. 105-164.10 – Retail Tax Calculation: This section is amended, in part, and reads as follows: “[i]n computing [sales and use] tax due, the tax computation must be carried to the third decimal place and must round up to the next cent whenever the third decimal place is greater than four. A person liable for [sales and use] tax . . . may elect to compute the tax due on a transaction on an item or on an invoice basis and apply the rounding rule to the aggregate tax due.” The provision has been in the Sales and Use Tax Bulletins for a number of years and the language is simply being added to the sales and use tax laws. This addition is not a change in interpretation by the Secretary.

(Effective August 11, 2017; SB 628, s. 2.9(h), S.L. 2017-204.)

S.L. 2017-57, s. 38.8.(e) – Study Manufacturing: “[t]he Revenue Laws Study Committee is directed to study ways in which to clarify the scope of the sales and use tax exemption for mill machinery by modernizing and further defining the statutory language and by incorporating existing administrative interpretations of the Department of Revenue, to the extent the General Assembly desires to maintain those interpretations. . . . The Committee may report its findings, together with any recommended legislation, to the 2018 Regular Session of the 2017 General Assembly upon its convening.”

(Effective July 1, 2017; SB 257, s. 38.8.(e), S.L. 2017-57.)

EXEMPTIONS AND EXCLUSIONS

G.S. 105-164.4I(b) – Service Contract Exemptions

The following subdivisions regarding service contract exemptions were either added or amended as noted below:

Service Contract Exemption per Article 5 (1). –This subdivision is amended to provide “[t]his exemption does not apply to water maintained under a service contract for a pool, fish tank, or similar aquatic feature.”

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s. 38.5.(h), S.L. 2016-94.)

Service Contract Exemption – Motorsports (3). This subdivision is amended and broadens the language of the exemption retroactively. The language of the amended subdivision is as follows: “[a] transmission, an engine, rear-end gears, and any other item *purchased, leased, or rented* by a professional motorsports racing team or a related member of a team for which the team *or related member* may receive a *sales tax exemption under G.S. 105-164.13(65) or G.S. 105-164.13(65a) or a sales tax refund under G.S. 105-164.14A(a)(5).* This subdivision expires January 1, 2020.” [Emphasis added.]

(Effective retroactively to January 1, 2014; SB 729, s. 3.24.(a), S.L. 2016-5.)

Service Contract Exemption – Article 5F, Certain Machinery and Equipment (4): This subdivision is repealed in conjunction with the repeal of Article F, Certain Machinery and Equipment, of Chapter 105 of the General Statutes. A service contract, for an item (such as mill machinery) that is currently exempt from sales and use taxes, will remain exempt from tax on or after the date of repeal unless other legislation is signed into law.

(Effective July 1, 2018, and applies to sales on or after that date; SB 257, s. 38.8.(b), S.L. 2017-57.)

Service Contract Exemption – Motor Vehicle Service Contract (6): This subdivision is added to include an exemption for a motor vehicle service contract, as defined in G.S. 105-164.3.

(Effective January 1, 2017, and applies to sales on or after that date; HB 1030, s. 38.5.(h), S.L. 2016-94.)

Service Contract Exemption – Repair, Maintenance, and Installation Services (7): This subdivision is added to include an exemption for repair, maintenance, and installation services exempt under G.S. 105-164.13(61a).

(Effective January 1, 2017, and applies to sales on or after that date; HB 1030, s. 38.5.(h), S.L. 2016-94.)

G.S. 105-164.4(b) – Service Contract Exemptions: This subsection is repealed which contained a number of service contract exemptions. Refer to G.S. 105-164.13(61a) and G.S. 105-164.13(62), both amended, which contain various service contract sales and use tax exemptions.

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.5.(a), S.L. 2017-204.)

G.S. 105-164.4(c) – Service Contract Exceptions: This subsection is amended and provides “[t]he tax imposed by this section does not apply to any of the following:

- (1) A security or similar monitoring contract for real property.
- (2) A contract to provide a certified operator for a wastewater system.”

The subsection as amendment adds an exception for a contract to provide a certified operator for a wastewater system.

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.5.(b), S.L. 2017-204.)

G.S. 105-164.13 – Exemptions and Exclusions: The 2016 and 2017 General Assembly repealed, added, and enacted clarifying changes to the exemptions from sales and use tax. The changes and their effective dates are as follows:

Tangible personal property, digital property, and services for a farmer . . . – (1).

This subdivision is added to provide a cross reference under the sales and use tax exemptions and exceptions that “[t]angible personal property, digital property, and services for a farmer may be exempt as provided in G.S. 105-164.13E.” This addition of this subdivision does not change the application of sales and use tax exemptions to qualifying purchases by a qualifying farmer or a conditional farmer.

(Effective August 11, 2017; SB 628, s. 2.9.(a), S.L. 2017-204.)

Products . . . that are subject to tax under Article 5F . . . – (5a). This exemption is repealed simultaneously with the repeal of Article 5F, Certain Machinery and Equipment, of Chapter 105 of the North Carolina General Statutes. See the discussion below for subdivisions (5e) through (5n) for additional pertinent information.

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(a), S.L. 2017-57.)

Sales of qualifying mill machinery . . . – (5e). This subdivision is added and provides an exemption for “[s]ales of mill machinery or mill machinery parts or accessories to any of the following:

- a. A manufacturing industry or plant. A manufacturing industry or plant does not include (i) a delicatessen, cafe, cafeteria, restaurant, or another similar retailer

that is principally engaged in the retail sale of foods prepared by it for consumption on or off its premises or (ii) a production company.

- b. A contractor or subcontractor if the purchase is for use in the performance of a contract with a manufacturing industry or plant.
- c. A subcontractor if the purchase is for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57. Prior to this date, such qualifying items were exempt from sales and use taxes under G.S. 105-164.13(5a), which is repealed simultaneously with the effective date of this exemption.)

Sales of qualifying items to a major recycling facility . . . – (5f). This subdivision is added and provides an exemption for “[s]ales to a major recycling facility of any of the following tangible personal property for use in connection with the facility:

- a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.
- b. Port and dock facilities.
- c. Rail equipment.
- d. Material handling equipment.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57. Prior to this date, such qualifying items were exempt from sales and use taxes under G.S. 105-164.13(5a), which is repealed simultaneously with the effective date of this exemption.)

Sales of qualifying equipment . . . to a company primarily engaged . . . in research and development . . . – (5g). This subdivision is added and provides an exemption for “[s]ales of equipment, or an attachment or repair part for equipment that meets all of the following requirements:

- a. Is sold to a company primarily engaged at the establishment in research and development activities in the physical, engineering, and life sciences included in industry group 54171 of NAICS.
- b. Is capitalized by the company for tax purposes under the Code.
- c. Is used by the company at the establishment in the research and development of tangible personal property.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57. Prior to this date, such qualifying items were exempt from sales and use taxes under G.S. 105-164.13(5a), which is repealed simultaneously with the effective date of this exemption.)

Sales of qualifying equipment . . . to a company primarily engaged . . . in software publishing activities . . . – (5h). This subdivision is added and provides an exemption

for “[s]ales of equipment, or an attachment or repair part for equipment, that meets all of the following requirements:

- a. Is sold to a company primarily engaged at the establishment in software publishing activities included in industry group 5112 of NAICS.
- b. Is capitalized by the company for tax purposes under the Code.
- c. Is used by the company at the establishment in the research and development of tangible personal property.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57. Prior to this date, such qualifying items were exempt from sales and use taxes under G.S. 105-164.13(5a), which is repealed simultaneously with the effective date of this exemption.)

Sales of qualifying equipment . . . to a company primarily engaged . . . in industrial machinery refurbishing activities . . . – (5i). This subdivision is added and provides an exemption for “[s]ales of equipment, or an attachment or repair part for equipment, that meets all of the following requirements:

- a. Is sold to a company primarily engaged at the establishment in industrial machinery refurbishing activities included in industry group 811310 of NAICS.
- b. Is capitalized by the company for tax purposes under the Code.
- c. Is used by the company at the establishment in repairing or refurbishing tangible personal property.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57. Prior to this date, such qualifying items were exempt from sales and use taxes under G.S. 105-164.13(5a), which is repealed simultaneously with the effective date of this exemption.)

Sales of qualifying items . . . to a company located at a ports facility for waterborne commerce – (5j). This subdivision is added and provides an exemption for “[s]ales of the following to a company located at a ports facility for waterborne commerce:

- a. Machinery and equipment that is used at the facility to unload or to facilitate the unloading or processing of bulk cargo to make it suitable for delivery to and use by manufacturing facilities.
- b. Parts, accessories, or attachments used to maintain, repair, replace, upgrade, improve, or otherwise modify such machinery and equipment.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57. Prior to this date, such qualifying items were exempt from sales and use taxes under G.S. 105-164.13(5a), which is repealed simultaneously with the effective date of this exemption.)

Sales of qualifying items . . . to a secondary metals recycler – (5k). This subdivision is added and provides an exemption for “[s]ales of the following to a secondary metals recycler:

- a. Equipment, or an attachment or repair part for equipment, that (i) is capitalized by the person for tax purposes under the Code, (ii) is used by the person in the secondary metals recycling process, and (iii) is not a motor vehicle or an attachment or repair part for a motor vehicle.
- b. Fuel, piped natural gas, or electricity for use at the person's facility at which the primary activity is secondary metals recycling.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57. Prior to this date with exceptions, certain qualifying items purchased by certain metal recyclers may be exempt from sales and use taxes under G.S. 105-164.13(5a, which is repealed simultaneously with the effective date of this exemption.)

Sales of qualifying equipment . . . to a company primarily engaged . . . in . . . extracting precious metals . . . – (5l). This subdivision is added and provides an exemption for “[s]ales of equipment, or an attachment or repair part for equipment, that meets all of the following requirements:

- a. Is sold to a company primarily engaged at the establishment in processing tangible personal property for the purpose of extracting precious metals, as defined in G.S. 66-406, to determine the value for potential purchase.
- b. Is capitalized by the company for tax purposes under the Code.
- c. Is used by the company in the process described in this subdivision.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57. Purchases of such qualifying items on or after July 1, 2016 and prior to July 1, 2018, were exempt from sales and use tax under G.S. 105-164.13(5a), which is repealed simultaneously with the effective date of this exemption.)

Sales of qualifying equipment . . . to a company . . . engaged in the fabrication of metal work . . . – (5m). This subdivision is added and provides an exemption for “[s]ales of equipment, or an attachment or repair part for equipment, that meets all of the following requirements:

- a. Is sold to a company that is engaged in the fabrication of metal work and that has annual gross receipts, including the gross receipts of all related persons, as defined in G.S. 105-163.010, from the fabrication of metal work of at least eight million dollars (\$8,000,000).
- b. Is capitalized by the company for tax purposes under the Code.
- c. Is used by the company at the establishment in the fabrication or manufacture of metal products or used by the company to create equipment for the fabrication or manufacture of metal products.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57.)

Sales of repair or replacement parts for a ready-mix concrete mill . . . – (5n). This subdivision is added and provides an exemption for “[s]ales of repair or replacement parts for a ready-mix concrete mill, regardless of whether the mill is freestanding or affixed to a motor vehicle, to a company that primarily sells ready-mix concrete.”

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(c), S.L. 2017-57. Prior to the effective date, purchases of such to repair a concrete mill mounted on a motor vehicle after the date the concrete mill is mounted, are not exemption from tax under G.S. 105-164.13(5a), which is repealed simultaneously with the effective date of this exemption.)

Sales of qualifying equipment . . . to a qualifying large fulfillment facility . . . – (5o).

This subdivision is added and provides an exemption for “[s]ales of equipment, or an accessory, an attachment, or a repair part for equipment that meets all of the following requirements:

- a. Is sold to a large fulfillment facility.
- b. Is used at the facility in the distribution process, which includes receiving, inventorying, sorting, repackaging, or distributing finished retail products.
- c. Is not electricity.

If the level of investment or employment required by G.S. 105-164.3(16f)b. is not timely made, achieved, or maintained, then the exemption provided under this subdivision is forfeited. If the exemption is forfeited due to a failure to timely make the required investment or to timely achieve the minimum required employment level, then the exemption provided under this subdivision is forfeited on all purchases. If the exemption is forfeited due to a failure to maintain the minimum required employment level once that level has been achieved, then the exemption provided under this subdivision is forfeited for those purchases occurring on or after the date the taxpayer fails to maintain the minimum required employment level. A taxpayer that forfeits an exemption under this subdivision is liable for all past sales and use taxes avoided as a result of the forfeiture, computed at the applicable State and local rates from the date the taxes would otherwise have been due, plus interest at the rate established under G.S. 105-241.21. Interest is computed from the date the sales or use tax would otherwise have been due. The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236.” See the definition of a “large fulfillment facility” under G.S. 105-164.3 for additional information.

(Effective July 1, 2017, and applies to sales made on or after that date; SB 257, s. 38.9.(b), S.L. 2017-57.)

Sales of aviation gasoline and jet fuel . . . – (11b). This subdivision is amended to correct the statutory reference to “section” from “subsection.”

(Effective July 12, 2017; HB 229, s. 15.1., S.L. 2017-102.)

Human blood, tissue, DNA, and organs . . . – (12). This subdivision is amended and adds a statutory exemption for “[s]ales of . . .

- e. Human blood, including whole, plasma, and derivatives.
- f. Human tissue, eyes, DNA, or an organ.”

See 17NCAC 07B.1406 of the North Carolina Administrative Code for related information prior to the effective date of this exemption.

(Effective August 11, 2017; SB 628, s. 2.9.(a), S.L. 2017-204.)

Food, prepared food, candy . . . sold not for profit . . . – (26b). This subdivision is added and provides an exemption for “[f]ood, prepared food, soft drinks, candy, and other items of tangible personal property sold not for profit for or at an event that is sponsored by an elementary or secondary school when the net proceeds of the sales will be given or contributed to the school or to a nonprofit charitable organization, one of whose purposes is to serve as a conduit through which the net proceeds will flow to the school. For purposes of this exemption, the term ‘school’ is an entity regulated under Chapter 115C of the General Statutes.”

(Effective January 1, 2017, and applies to sales made on or after date; SB 729, s. 3.9.(b), S.L. 2016-5.)

Sales of items by a nonprofit . . . – (34). This exemption is repealed. Sales of items by a nonprofit civic, charitable, educational, scientific or literary organization when the net proceeds of the sales will be given or contributed to the State of North Carolina or to one or more of its agencies or instrumentalities, or to one or more nonprofit charitable organizations, one of whose purposes is to serve as a conduit through which such net proceeds will flow to the State or to one or more of its agencies or instrumentalities are subject to the applicable rates of sales and use tax.

(Effective January 1, 2017, and applies to sales made on or after that date; SB 729, s. 3.9.(a), S.L. 2016-5.)

Custom computer software . . . – (43). This subdivision is amended and provides an exemption for “[c]ustom computer software and the portion of prewritten computer software that is modified or enhanced if the modification or enhancement is designed and developed to the specifications of a specific purchaser and the charges for the modification or enhancement are separately *stated on the invoice or similar billing document given to the purchaser at the time of the sale.*” [Emphasis added.]

(Effective August 11, 2017; SB 628, s. 2.9.(a), S.L. 2017-204.)

Items subject to sales and use tax . . . – (52). This subdivision is amended to correct the statutory reference to “as defined in G.S. 105-164.3.”

(Effective January 1, 2017; SB 729, s. 3.11.(a), S.L. 2016-5.)

Fuel, electricity, and piped natural gas sold to a manufacturer . . . – (57). This subdivision is amended. The language of the exemption as amended states “[f]uel, electricity, and piped natural gas sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to the following:

- a. Electricity used at a facility at which the primary activity is not manufacturing.
- b. Fuel and piped natural gas that is used *solely* for comfort heating at a manufacturing facility where there is no use of fuel or piped natural gas in a manufacturing process.” [Emphasis added]

(Effective January 1, 2017; SB 729, s. 3.11.(a), S.L. 2016-5. See the Important Notice: Fuel or Piped Natural Gas Used Solely for Comfort Heating by Certain Manufacturers for additional information regarding application of the effective date pursuant to G.S. 105-164.15A.)

Fuel, electricity, and piped natural gas sold to . . . – (57a). This subdivision is amended and provides an exemption for “[f]uel, piped natural gas, and electricity sold to a person subject to tax on certain tangible personal property pursuant to G.S. 105-187.51B(a)(6) for use in recycling at its facility at which the *primary activity is recycling.*” [Emphasis added.] The amendment removes the phrase “secondary metals recycler” and replaces it with “person subject to tax on certain tangible personal property pursuant to G.S. 105-187.51B(a)(6).”

(Effective August 11, 2017; SB 628, s. 2.9.(a), S.L. 2017-204.)

Fuel, electricity, and piped natural gas sold to a secondary metals recycler . . . – (57a). This exemption is repealed. See the new exemption G.S. 105-164.13(5k).

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(a), S.L. 2017-57. Effective October 8, 2017, and applies retroactively to sales made on or after July 1, 2017; SB 582, s. 7.2.(a), S.L. 2017-212.)

Motor vehicle service contract . . . – (61). This subdivision is amended to provide that a “motor vehicle service contract” is exempt from sales and use taxes. This subdivision was previously amended to remove the term “for tangible personal property” and to provide that “[a] service contract may be exempt as provided in G.S. 105-164.41.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.6., S.L. 2017-204. Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s. 38.5.(j), S.L. 2016-94.)

Repair, maintenance, and installation services . . . – (61a). This subdivision is amended and provides the following exemptions: “[t]he sales price of or the gross receipts derived from the repair, maintenance, and installation services and service contracts listed in this subdivision are exempt from tax. Except as otherwise provided in this subdivision, property and services used to fulfill either a repair, maintenance, or installation service or a service contract exempt from tax under this subdivision are

taxable. The list of repair, maintenance, and installation services and service contracts exempt from tax under this subdivision is as follows:

- a. An item exempt from tax under this Article [5 of Chapter 105 of the North Carolina Statutes]. Property and services used to fulfill a service or contract exempt under this sub-subdivision are exempt from tax under this Article [5 of Chapter 105 of the North Carolina Statutes]. This exemption does not apply to water for a pool, fish tank, or similar aquatic feature or to a motor vehicle, except as provided under . . . [G.S. 105-164.13](62a) of this section.
- b. A motor vehicle emissions and safety inspection fee imposed pursuant to G.S. 20-183.7, provided the fee is separately stated on the invoice or other documentation provided to the purchaser at the time of the sale.
- c. Services performed for a person by a related member.
- d. Cleaning of real property, except where the service constitutes a part of the gross receipts derived from the rental of an accommodation subject to tax under G.S. 105-164.4 or for a pool, fish tank, or other similar aquatic feature. Examples of cleaning of real property include custodial services, window washing, mold remediation services, carpet cleaning, removal of debris from gutters, removal of dust and other pollutants from ductwork, and power washing other than for a pool.
- e. Services on roads, driveways, parking lots, and sidewalks.
- f. Removal of waste, trash, debris, grease, snow, and other similar items from property, other than a motor vehicle. The exemption applies to household and commercial trash collection and removal services. The exemption applies to the removal of septage from property, including motor vehicles, but does not include removal of septage from portable toilets.
- g. The following inspections:
 1. An inspection performed where the results are included in a report for the sale or financing of real property.
 2. An inspection of the structural integrity of real property, provided the charge for the inspection is separately stated on the invoice or other documentation given to the purchaser at the time of the sale.
 3. An inspection to a system that is a capital improvement under G.S. 105-164.3(2c)f., provided the inspection is to fulfill a safety requirement and provided the charge for the inspection is separately stated on the invoice or other documentation given to the purchaser at the time of the sale.
- h. Alteration and repair of clothing, except where the service constitutes a part of the gross receipts derived from the rental of clothing subject to tax under G.S. 105-164.4 or for alteration and repair of belts and shoes.
- i. Pest control service. For purposes of this exemption, the term 'pest control service' means the application of pesticides to real property.
- j. Moving services. For purposes of this exemption, the term 'moving services' means a service for hire to transport or relocate a person's existing belongings to or from any destination.
- k. Self-service car washes and vacuums.
- l. A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.

- m. A qualified aircraft or a qualified jet engine.
- n. Funeral-related services, including services for the burial of remains. This exemption does not apply to the sale of tangible personal property, such as caskets, headstones, and monuments.
- o. Services performed on an animal, such as hoof shoeing and microchipping a pet.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.6., S.L. 2017-204.)

The exemption, as provided above, remains in effect and is further expanded by adding the following:

“The sales price of or the gross receipts derived from the repair, maintenance, and installation services and service contracts listed in this subdivision are exempt from tax. Except as otherwise provided in this subdivision, property and services used to fulfill either a repair, maintenance, or installation service or a service contract exempt from tax under this subdivision are taxable. The list of repair, maintenance, and installation services and service contracts exempt from tax under this subdivision is as follows:

• • •

- m. Any of the following:
 - 1. A qualified aircraft.
 - 2. A qualified jet engine.
 - 3. An aircraft with a gross take-off weight of more than 2,000 pounds.”

(Effective July 1, 2019, and applies to sales made on or after that date; SB 628, s. 2.12.(a), S.L. 2017-204.)

This subdivision was previously amended and provided the following exemptions:

“Sales of or the gross receipts derived from the following repair, maintenance, and installation services are exempt from tax:

- a. A fee or charge for an inspection required by law, regardless of whether the amount is paid to a public or private entity, provided the charge is separately stated on the invoice or other documentation provided to the purchaser at the time of the sale.
- b. Services performed for a person by a related member [as defined by G.S. 105-130.7A].
- c. Services performed to resolve an issue that was part of a real property contract if the services are performed within six months of completion of the real property contract or, for new construction, within 12 months of the new structure being occupied for the first time.
- d. Cleaning of real property, except where the service constitutes a part of the gross receipts derived from the rental of an accommodation subject to tax under G.S. 105-164.4 or for a pool, fish tank, or other similar aquatic feature.

- e. Services on roads, driveways, parking lots, and sidewalks.
- f. Removal of waste, trash, debris, grease, snow, and other similar items from tangible personal property, including a motor vehicle, and real property, but does not include removal of waste from portable toilets.
- g. Home inspections related to the preparation for or the sale of real property.
- h. Landscaping service [as defined by G.S. 105-164.3(16e)].
- i. Alteration and repair of clothing, except where the service constitutes a part of the gross receipts derived from the rental of clothing subject to tax under G.S. 105-164.4 or for alteration and repair of belts and shoes.
- j. Pest control service.
- k. Moving services.
- l. Self-service car washes.”

(Effective January 1, 2017, and applies to sales on or after that date through August 10, 2017, except as provided by 2017-204; HB 1030, s. 38.5.(i), S.L. 2016-94.)

Repair, maintenance, and installation services purchased for resale. – (61b). This subdivision is amended as follows: “[r]epair, maintenance, and installation services purchased for resale” is deleted and an exemption from sales and use tax is provided for “[t]angible personal property, digital property, and services purchased for resale under an exemption certificate in accordance with G.S. 105-164.28 or under a direct pay certificate in accordance with G.S. 105-164.27A.”

(Effective January 1, 2017, and applies to sales on or after that date; HB 1030, s. 38.5.(i), S.L. 2016-94.)

Installation charges . . . real property contract . . . – (61c). This subdivision amends the language of the exemption as follows: “[t]he exemption also applies to installation charges by a retailer-contractor when performing installation services for a real property contract. The exemption includes any labor costs provided by the real property contractor, including employees’ wages, or labor purchased from a third party that would otherwise be included in the definition of ‘purchase price.’”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.6., S.L. 2017-204.)

The subdivision was previously added and provides an exemption for “[i]nstallation charges that are a part of the sales price of tangible personal property purchased by a real property contractor to fulfill a real property contract for an item that is installed or applied to real property, provided the installation charges are separately stated and identified as such on the invoice or other documentation given to the real property contractor at the time of the sale.”

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s. 38.5.(i), S.L. 2016-94.)

Installation charges . . . real property contract . . . – (61d). This subdivision is added and provides an exemption for “[i]n installation charges that are a part of the sales price of or gross receipts derived from repair, maintenance, and installation services or installation charges only purchased by a real property contractor to fulfill a real property contract, provided the installation charges are separately stated and identified as such on the invoice or other documentation given to the real property contractor at the time of the sale. The exemption also applies to installation charges by a retailer-contractor when performing a real property contract. The exemption includes any labor costs provided by the real property contractor, including employees wages, or labor purchased from a third party that would otherwise be included in the definition of ‘purchase price.’”

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s. 38.5.(i), S.L. 2016-94.)

An item or repair, maintenance, and installation services used to maintain, or repair . . . – (62). This subdivision is further amended and as rewritten provides an exemption from sales and use tax for “[a]n item or repair, maintenance, and installation services purchased or used to fulfill a service contract taxable under this Article [5 of Chapter 105 of the North Carolina General Statutes] if the purchaser of the contract is not charged for the item or services. *This exemption does not apply to the purchase of tangible personal property or digital property used to fulfill a service contract for real property where the charge being covered would otherwise be subject to tax as a real property contract.* For purposes of this exemption, the term ‘item’ does not include a tool, equipment, supply, or similar tangible personal property that is not deemed to be a component or repair part of the tangible personal property, real property, or digital property for which a service contract is sold to a purchaser.” [Emphasis added.]

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.6., S.L. 2017-204.)

This subdivision was previously amended and as rewritten provided an exemption from sales and use tax for “[a]n item or repair, maintenance, and installation services used to maintain, monitor, inspect, or repair tangible personal property or digital property pursuant to a service contract taxable under . . . Article [5 of Chapter 105 of the North Carolina General Statutes] if the purchaser of the contract is not charged for the item or services. For purposes of this exemption, the term ‘item’ does not include a tool, equipment, supply, or similar tangible personal property that is not deemed to be a component or repair part of the tangible personal property or digital property for which a service contract is sold to a purchaser.”

(Effective January 1, 2017, and applies to sales made on or after that date through August 10, 2017, except as provided by S.L. 2017-204; HB 1030, s. 38.5.(i), S.L. 2016-94.)

Repair, maintenance, and installation services for a boat, an aircraft, or a qualified jet engine . . . – (62b). This subdivision is added and provides an exemption for “[t]he amount of repair, maintenance, and installation services for a boat, an aircraft, or a qualified jet engine for which the purchaser elects for the seller to collect and remit the tax due under G.S. 105-164.27A(a3).” See G.S. 105-164.27A(a3) for additional information regarding the use tax exemption for certain charges.

(Effective August 11, 2017; SB 628, s. 2.11.(b), S.L. 2017-204.)

Professional motorsports racing team . . . – (65). This subdivision is amended to add subdivisions a. and b. and the exemption as amended reads as follows: “[t]his subdivision expires January 1, 2020. Sales of the following to a professional motorsports racing team or a related member of a team for use in competition in a sanctioned race series:

- a. The sale, lease, or rental of an engine.
- b. The sales price of or gross receipts derived from a service contract on, or repair, maintenance, and installation services for, a transmission, an engine, rear-end gears, and any other item that is purchased, leased, or rented and that is exempt from tax under this subdivision or that is allowed a sales tax refund under G.S. 105-164.14A(a)(5).
- c. The gross receipts derived from an agreement to provide an engine to a professional motorsports racing team or related member of a team for use in competition in a sanctioned race series, where such agreement does not meet the definition of a ‘service contract’ as defined in G.S. 105-164.3 but may meet the definition of the term ‘lease or rental’ as defined in G.S. 105-164.3.”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.6., S.L. 2017-204.)

Storage of a motor vehicle . . . – (66). This subdivision is added and provides an exemption for “[s]torage of a motor vehicle, *provided the charge is separately stated on the invoice or other documentation provided to the purchaser at the time of the sale.*” [Emphasis added.]

(Effective January 1, 2017 for sales made on or after that date; HB 1030, s. 38.5.(i), S.L. 2016-94.)

Towing services . . . – (67). This subdivision is added and provides an exemption for “[t]owing services, *provided the charge is separately stated on the invoice or other documentation provided to the purchaser at the time of the sale.*” [Emphasis added.]

(Effective January 1, 2017 for sales made on or after that date; HB 1030, s. 38.5.(i), S.L. 2016-94.)

Wastewater dispersal products . . . – (68). This subdivision is amended and provides an exemption for “[s]ales of wastewater dispersal products approved by the Department

of Health and Human Services under Article 11 of Chapter 130A of the [North Carolina] General Statutes.” The term “wastewater dispersal product” is defined in G.S. 130A-334 and “means a product approved by the Department [of Health and Human Services] for dispensing wastewater effluent within the subsurface dispersal field in a ground absorption system.” A list of approved wastewater dispersal products is published on the North Carolina Department of Revenue’s website.

Effective October 1, 2016 through June 30, 2017, the subdivision provided an exemption for “[s]ales of products that are made of more than seventy-five (75%) by weight of recycled materials when the products are sold for use in an accepted wastewater dispersal system as defined in G.S. 130A-343.”

(Effective July 1, 2017, and applies to sales made on or after that date; HB 548, s. 1, S.L. 2017-139.)

Investment coins, investment metal bullion, and non-coin currency . . . – (69).

This subdivision is added and provides an exemption for “[s]ales of non-coin currency, investment metal bullion, and investment coins. For purposes of this subdivision, the following definitions apply:

- a. Investment coins. – Numismatic coins or other forms of money and legal tender manufactured of metal under the laws of the United States or any foreign nation with a fair market value greater than any statutory or nominal value of such coins.
- b. Investment metal bullion. – Any elementary precious metal that has been put through a process of smelting or refining and that is in such state or condition that its value depends upon its content and not upon its form. The term does not include fabricated precious metal that has been processed or manufactured for one or more specific and customary industrial, professional, or artistic uses.
- c. Non-coin currency. – Forms of money and legal tender manufactured of a material other than metal under the laws of the United States or any foreign nation with a fair market value greater than any statutory or nominal value of such currency.”

(Effective July 1, 2017, and applies to sales made on or after that date; HB 434, s. 1, S.L. 2017-181.)

G.S. 105-164.13E – Exemption for Farmers: The following subdivision and subsection in this section were either added or amended as noted below:

G.S. 105-164.13E(a)(10) – This subdivision is added to expressly codify an exemption for repair, maintenance, and installation services purchased by a qualifying or conditional farmer and for use by the farmer in farming operations. An item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. See the exemption under G.S. 105-164.13(61a) applicable to repair, maintenance, and

installation services purchased by a qualifying or conditional farmer on or after March 1, 2016 and prior to January 1, 2017.

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s. 38.5.(j), S.L. 2016-94.)

G.S. 105-164.13E(b) – This subsection is amended to add “that a person may request a one-year extension of their conditional exemption certificate if the person satisfies all of the following conditions:

- (1) The person holds a conditional exemption certificate that is scheduled to expire within 30 days of an extension request.
- (2) The person suffers a weather-related disaster that prevents the person from becoming eligible for a qualifying exemption certificate.
- (3) The person provides the Department all of the following:
 - a. Documents showing that, but for the disaster, the person would have earned ten thousand (\$10,000) or more in gross sales for the year in which the disaster occurred.
 - b. Documentation of revenues and expenses relating to the damaged crop.
 - c. An affidavit from a county extension director or FSA county committee that the disaster occurred in the area of the county in which the person farms.”

Form E-595CFEX, Application for One-Year Extension for Conditional Farmer Exemption Certificate, available on the Department’s website, must be used by a conditional farmer to request a one-year extension of a conditional farmer exemption number.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2017; SB 615, s. 20.(a), S.L. 2017-108.)

REFUNDS AUTHORIZED FOR CERTAIN PERSONS

G.S. 105-164.14(a) – Interstate Carrier: This subsection is amended to expand the refund provision to include sales and use taxes paid on “repair, maintenance, and installation services” and “service contracts” that the subsection is rewritten as follows: “[a]n interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars and locomotives, and fuel, lubricants, repair parts, accessories, service contracts, and repair, maintenance, and installation services for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An ‘interstate carrier’ is a person who is engaged in transporting persons or property in interstate commerce for compensation. .

..
An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

- (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts, accessories, *service contracts, and repair, maintenance, and installation services* purchased by the applicant inside or outside this State during the refund period. . . .” [Emphasis added.]

(Effective retroactively to March 1, 2016; SB 628, s. 2.7.(a), S.L. 2017-204.)

G.S. 105-164.14(b) – Nonprofit and Hospital Drugs: This subsection is amended to clarify that “[t]he aggregate annual refund amount allowed an entity under this subsection for the *State’s* fiscal year may not exceed thirty-one million seven hundred thousand dollars (\$31,700,000).” [Emphasis added.]

(Effective August 11, 2017; SB 628, s. 2.9.(b), S.L. 2017-204.)

G.S. 105-164.14(e) – State Agencies: This subsection is amended to provide that the quarterly refunds of local sales and use taxes allowed by the subsection do not apply to “a State agency that is ineligible for a sales and use tax exemption number under G.S. 105-164.29A(a).” Therefore, an occupational licensing board, as defined in G.S. 93B-1 or an entity listed in G.S. 105-164.14(c) should not file a written application for a refund of taxes pursuant to this subsection.

(Effective July 1, 2017; SB 729, s. 3.22(b), S.L. 2016-5.)

G.S. 105-164.14A(a)(4) – Motorsports Team or Sanctioning Body: This subdivision is amended to make a technical correction to replace the term “aviation fuel” with “aviation gasoline or jet fuel,” which are both defined terms in the sales and use tax laws.

(Effective June 21, 2017; HB 59, s. 7, S.L. 2017-39.)

G.S. 105-164.14A(a)(8) – Transformative Projects: This subdivision is added to allow a refund as follows “[a]n owner or lessee of a business that is the recipient of a grant under the Job Development Investment Grant Program on or before June 30, 2019, for a transformative project as defined in G.S. 143B-437.51(9a) is allowed a refund of the sales and use tax paid by it on building materials, building supplies, fixtures, and equipment that become a part of the real property of the facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner.”

G.S. 143B-437.51(9a) currently defines a “transformative project” as “[a] project for which the agreement requires that a business invest at least four billion dollars (\$4,000,000,000) in private funds and create at least 5,000 eligible positions.”

(Effective July 1, 2017, and applies to purchases made on or after that date; SB 257, s. 38.9A.(b), S.L. 2017-57.)

OTHER PROVISIONS

G.S. 105-164.27A(a3) – Boat, Aircraft, and Qualified Jet Engine: This subsection is amended, and provides, in part, that “[i]n lieu of purchasing tangible personal property, digital property, or repair, maintenance, and installation services for a boat, an aircraft, or a qualified jet engine under a direct pay permit, filing a return, and remitting the tax due to the Secretary of Revenue, *a purchaser may elect to have the seller collect and remit the sales and use tax due on behalf of the purchaser. Where the purchaser elects for the seller to collect and remit the 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.* Where a seller cannot or does not separately state installation charges that are a part of the sales price of tangible personal property or digital property for a boat, an aircraft, or a qualified jet engine on the invoice or other documentation given to the purchaser at the time of the sale, tax is due on the total purchase price.” [Emphasis added.]

(Effective August 11, 2017; SB 628, s. 2.11.(a), S.L. 2017-204.)

G.S. 105-164.29(a) – Application for Certificate of Registration Requirement: This subsection is amended to clarify a facilitator liable for tax under Article 5 of Chapter 105 of the North Carolina General Statutes must obtain a certificate of registration.

(Effective June 21, 2017; HB 59, s. 8, S.L. 2017-39.)

G.S. 105-164.29(c) – Application for Certificate of Registration Term: This subsection is amended to replace the term “retailer” and the term “facilitator” with the term “person” to clarify a facilitator that is liable for tax under Article 5 of Chapter 105 of the North Carolina General Statutes must obtain a certificate of registration and is liable. Additionally, the subsection was amended to add “[a] certificate of registration issued to a seller that contracts with a certified service provider pursuant to G.S. 105-164.42I and that is a model one seller as defined in the Streamlined Agreement does not become void if the certified service provider files returns for the seller showing no sales for a period for which a certificate could become void under this subsection.”

(Effective June 21, 2017; HB 59, s. 8, S.L. 2017-39.)

G.S. 105-164.29A(a) – State Government Exemption Process: This subsection is amended to clarify that “an occupational licensing board, as defined in G.S. 93B-1” or “an entity listed in G.S. 105-164.14(c)” is not eligible for a State agency sales tax exemption number and the exemption in G.S. 105-164.13(52) does not apply to sales to or purchases by such board or entity.

(Effective July 1, 2017; SB 729, s. 3.22.(a), S.L. 2016-5.)

G.S. 105-164.44M – Transfer to Division of Aviation: This section is amended to clarify that the “[a]mount . . . annually appropriated from the Highway Fund to the

Division of Aviation of the Department of Transportation [is] for prioritized capital improvements to general aviation airports for time-sensitive aviation capital improvement projects for economic development purposes.”

(Effective January 1, 2018, and applies to sales made on or after that date; SB 257, s. 34.21.(a), S.L. 2017-57.)

SPECIAL PROVISIONS

G.S. 105-244.3 – Sales Tax Base Expansion Protection Act: This section is added to Article 9 of Chapter 105 of the General Statutes to provide certain relief from sales and use taxes due to the expansion of the sales tax base for certain periods in 2016 and 2017. The following explains the protections provided by the Act.

“(a) Grace Period. –

The Department shall take no action to assess any tax due for a filing period beginning on or after March 1, 2016, and ending before January 1, 2018, if one or more of the conditions of this subsection apply and the retailer did not receive specific written advice from the Secretary for the transactions at issue for the laws in effect for the applicable periods. The conditions are as follows:

- (1) A retailer failed to charge sales tax due on separately stated installation charges that are part of the sales price of tangible personal property or digital property sold at retail for a filing period beginning on or after March 1, 2016, and ending before January 1, 2018.
- (2) A person failed to properly classify themselves as a retailer in retail trade for the filing period beginning on or after March 1, 2016, and ending before January 1, 2017, and did not charge sales tax on all retail transactions but rather treated some transactions as real property contracts in error for sales and use tax purposes. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a transaction erroneously treated as a real property contract.
- (3) A person treated a transaction as a real property contract in error and did not collect sales tax on the transaction as a retail sale for a filing period beginning on or after March 1, 2016, and ending before January 1, 2018. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a transaction erroneously treated as a real property contract.
- (4) A person failed to collect sales tax on the sales price of a service contract for one or more components, systems, or accessories for a motor vehicle for a filing period beginning on or after March 1, 2016, and ending before January 1, 2017, where the contract was sold by a motor vehicle dealer, a motor

vehicle service agreement company, or a motor vehicle dealer on behalf of a motor vehicle service agreement company.

- (5) A person failed to collect sales tax on the retail sale of a service contract for tangible personal property that becomes a part of or is affixed to real property for a filing period beginning on or after March 1, 2016, and ending before January 1, 2018.
 - (6) A person failed to collect sales tax on the retail sale of a service contract for a pool, a fish tank, or similar aquatic feature for a filing period beginning on or after January 1, 2017, and ending before January 1, 2018, provided the person paid tax on any purchases used to fulfill the service contract.
 - (7) A person failed to collect sales tax on the sales price of or the gross receipts derived from the retail sale of a home warranty for a filing period beginning on or after January 1, 2017, and ending before January 1, 2018, provided the warranty includes coverage for real property.
 - (8) A person failed to collect sales tax on the portion of a mixed contract for repair, maintenance, and installation services that exceeds ten percent (10%) for a transaction for a filing period beginning on or after March 1, 2016, and ending before January 1, 2017. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a mixed contract.
 - (9) A person treats a transaction as a real property contract for remodeling instead of the retail sale of repair, maintenance, and installation services sold at retail for a filing period beginning on or after March 1, 2016, and ending before January 1, 2018. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill the transaction.
- (b) Limitations. – This section does not prohibit the following assessments:
- (1) The assessment of tax collected by a person and not remitted to the Department.
 - (2) The assessment of tax due on an amount included in the definition of sales price where a retailer failed to charge or remit the tax, except as allowed under subsection (a) of this section.
 - (3) The assessment of use tax on purchases as provided in subsection (a) of this section.”

(Effective August 11, 2017; SB 628, s. 2.8.(c), S.L. 2017-204.)

G.S. 105-244.4 – Reduction of Certain Tax Assessments: This section is added to Article 9 of Chapter 105 of the General Statutes to provide that the Secretary may reduce an assessment against a taxpayer for tax on specific items and charges for taxpayers, who timely request a permitted reduction of tax. The section provides the following:

- (a) Reduction – The Secretary may reduce an assessment against a taxpayer who requests relief for State and local sales and use taxes in

the amount as provided in this section and waive any penalties imposed as part of the assessment when the assessment is the result of an audit of the taxpayer by the Department and all of the following apply:

- (1) The taxpayer remitted to the Department all of the sales and use taxes it collected during the audit period.
- (2) The taxpayer had not been informed by the Department in a prior audit to collect sales and use taxes in the circumstance that is the basis of the assessment, as reflected in the written audit comments of the prior audit.
- (3) The taxpayer had not requested and received from the Department a private letter ruling advising to collect sales and use taxes in the circumstance that is the basis of the assessment.
- (4) The assessment is based on the incorrect application of one or both of the following areas of the sales and use tax statutes:
 - a. The failure to collect sales tax on separately stated linen charges where the linens are furnished by a facilitator rental agent, or other person and the charges are part of the gross receipts derived from the rental of the accommodation taxed in accordance with G.S. 105-164.4F.
 - b. The failure to pay sales or use tax on the rental of linens used by a facilitator, rental agent, or other person in providing the rental of an accommodation taxed in accordance with G.S. 105-164.4F where the facilitator, rental agent, or other person issued a certificate of exemption or the required data elements per G.S. 105-164.28 to the lessor.
- (5) The taxpayer meets one of the following:
 - a. The taxpayer received a proposed assessment dated on or before August 15, 2017, did not file a request for review, paid the tax due, and files a written request with the Secretary on or before December 29, 2017, to request the amount of sales or use taxes be reduced as provided in this section citing the specific reasons therefor.
 - b. The taxpayer received a proposed assessment dated on or before September 30, 2017, timely filed a request for review, and files a written request with the Secretary on or before December 29, 2017, to request the amount of sales or use taxes be reduced as provided in this section citing the specific reasons therefor. The Department does not need to take further action on the taxpayer's request for review unless the taxpayer states in writing, when filing a request for reduction under this section, that the reduction does not resolve the taxpayer's objection to the

proposed assessment and that the taxpayer wishes to continue the Departmental review.

- c. The taxpayer receives a proposed assessment after September 30, 2017, and timely files a request for review as provided in G.S. 105-241.11 and files a written request with the Secretary no later than 45 days from the date of the notice of the proposed assessment to request the amount of sales or use taxes be reduced as provided in this section citing the specific reasons therefor.
- (b) Amount. – A sales and use tax assessment against a taxpayer may be reduced by ninety percent (90%) of the total amount of sales and use tax assessed. The Secretary may also waive all penalties that were imposed as part of the assessment. A reduction of an assessment under this section and the waiver of penalties imposed as part of the assessment apply only to the amount of the assessment attributable to the incorrect application of one or both of the areas of the law listed in subdivision (a)(4) of this section.
- (c) Application. – This section applies to the following for a tax period ending prior to January 1, 2018:
 - (1) A proposed assessment or portion of a proposed assessment.
 - (2) An assessment that becomes collectible under G.S. 105-241.22.
 - (3) A pending request for review case.
 - (4) This section does not authorize a refund for sales or use taxes that were originally collected and remitted to the Department.
- (d) Expiration. – This section is not applicable to an assessment attributable to the incorrect application of one or both areas listed in subdivision (a)(4) of this section for a period beginning on or after January 1, 2018.”

(Effective August 11, 2017; SB 628, s. 2.8A, S.L. 2017-204; SB582, s. 7.1.(a), S.L. 2017-212.)

LOCAL SALES AND USE TAX

G.S. 105-467(b) – Exemptions and Refunds: This subsection is amended to modernize, clarify, and update various phrases and references. Additionally, this subsection is also amended to clarify that “[t]he aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for the *State’s* fiscal year may not exceed thirteen million three hundred thousand dollars (\$13,300,000).” [Emphasis added.]

(Effective August 11, 2017; SB 628, s. 2.9.(c), S.L. 2017-204.)

G.S. 105-467(c) – Sourcing: This subsection is amended to provide that “[t]he sourcing principles in Article 5 of . . . Chapter [105 of the North Carolina General Statutes] apply in determining whether the local sales tax applies to a transaction.”

(Effective August 11, 2017; SB 628, s. 2.9.(c), S.L. 2017-204.)

G.S. 105-468 – Scope of Use Tax: This section is amended to delete superfluous language, clarify that the sourcing provisions in Article 5 of Chapter 105 of the North Carolina General Statutes apply, and to conform the language of the subsection to other provisions of the statutes.

(Effective August 11, 2017; SB 628, s. 2.9.(d), S.L. 2017-204.)

G.S. 105-468.1 – Certain Building Materials Exempt from Sales and Use Taxes: This section is amended to modernize and conform the language to the provisions of Article 5 of Chapter 105 of the North Carolina General Statutes. The language as amended reads as follows: “[t]he provisions of this Article shall not be applicable with respect to any tangible personal property or digital property purchased for the purpose of fulfilling a real property contract for a capital improvement entered into or awarded, or entered into or awarded pursuant to any bid made, before the effective date of the tax imposed by a taxing county when, absent the provisions of this section, such building materials property would otherwise be subject to tax under the provisions of . . . Article [5 of Chapter 105 of the North Carolina General Statutes].”

(Effective retroactively to January 1, 2017, for sales and purchases occurring on or after such date unless an amendment increases a sales and use tax liability, then the change is effective August 11, 2017; SB 628, s. 2.4.(e), S.L. 2017-204.)

G.S. 105-471 – Retailer to Collect Sales Tax: This section is amended to modernize and conform the language to the provisions of Article 5 of Chapter 105 of the North Carolina General Statutes. Additionally, superfluous language is deleted.

(Effective August 11, 2017; SB 628, s. 2.9.(e), S.L. 2017-204.)

G.S. 105-474 – Definitions; Construction of Article; Remedies and Penalties: This section is amended and reads as follows: “[t]he definitions set forth in Article 5 . . . of Chapter [105 of the North Carolina General Statutes] shall apply to . . . Article [39] insofar as such definitions are not inconsistent with the provisions of . . . Article [39], and all other provisions of Articles 5 and 9 of . . . Chapter [105 of the North Carolina General Statutes] as the same relate to the North Carolina Sales and Use Tax Act shall be applicable to . . . Article [39] unless such provisions are inconsistent with the provisions of . . . Article [39]. The administrative interpretations made by the Secretary of Revenue with respect to the North Carolina Sales and Use Tax Act, to the extent not inconsistent with the provisions of . . . Article [39], may be uniformly applied in the construction and interpretation of . . . Article [39]. It is the intention of . . . Article [39] that the provisions of . . . Article [39] and the provisions of the North Carolina Sales and Use Tax Act, insofar as practicable, shall be harmonized.

The provisions with respect to remedies and penalties applicable to the North Carolina Sales and Use Tax Act, as contained in Articles 5 and 9 of . . . Chapter [105 of the North Carolina General Statutes], shall be applicable in like manner to the tax authorized to be levied and collected under . . . Article [39], to the extent that the same are not inconsistent with the provisions of . . . Article [39].”

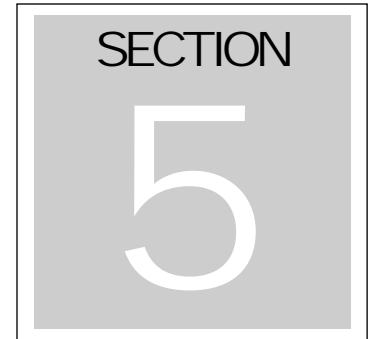
(Effective August 11, 2017; SB 628, s. 2.9.(f), S.L. 2017-204.)

G.S. 105-523 – County Hold Harmless for Repealed Local Taxes Effective July 1, 2017: This section is amended and provides the following:

- (a) **Intent.** – It is the intent of the General Assembly that each county be held harmless from the exchange of a portion of the local sales and use taxes for the State’s agreement to assume the responsibility for the non-administrative costs of Medicaid.
- (b) **Definitions.** – The following definitions apply in this section:
 - (2) **Hold harmless threshold.** – The amount of a county’s Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year. A county’s Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

(Effective July 1, 2017; SB 744, s. 37.2.(d), S.L. 2014-100.)

HIGHWAY USE TAX



Highway Use Tax – Article 5A

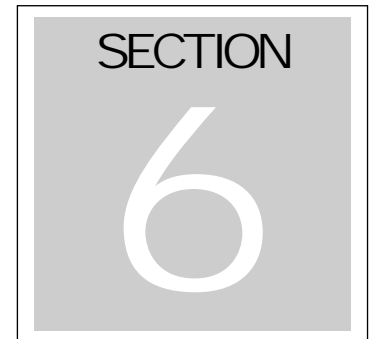
G.S. 105-187.5(a) – Election: This subsection is amended and provides, the charge for a service contract “*must be separately stated on documentation given to the purchaser at the time the lease or rental agreement goes into effect, or on the monthly billing statement or other documentation given to the purchaser. When a lease or rental contract is sold to another retailer, the seller of the lease or rental contract should provide to the purchaser of the lease or rental contract the documentation showing that the service contract and applicable sales taxes were separately stated at the time the lease or rental went into effect and the new retailer must retain the information to support an allocation for tax computed on the gross receipts subject to highway use tax.* Like the tax imposed by G.S. 105-187.3, this alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on a retailer, but is to be added to the lease or rental price of a motor vehicle and thereby be paid by the person who leases or rents the vehicle.” [Emphasis added.]

(Effective January 1, 2017, and applies to sales made on or after that date; HB 1030, s. 38.5.(k), S.L. 2016-94.)

G.S. 105-187.9(a) – Distribution: This subsection is amended and provides, “[o]f the taxes collected under . . . Article [5A of Chapter 105 of the North Carolina General Statutes] at the rate of eight percent (8%), the sum of ten million dollars (\$10,000,000) shall be credited annually to the Highway Fund, and the remainder shall be credited to the General Fund. Taxes collected under . . . Article [5A of Chapter 105 of the North Carolina General Statutes] at the rate of three percent (3%) shall be credited to the North Carolina Highway Trust Fund.”

(Effective June 28, 2017, and applies to taxes collected on or after that date; SB 257, s. 2.2.(f), S.L. 2017-57.)

DRY-CLEANING SOLVENT TAX

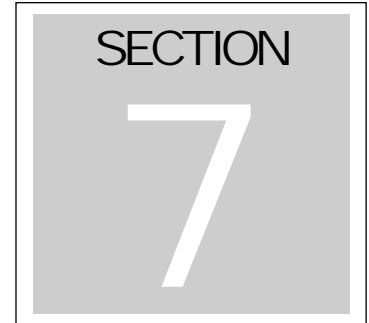


Dry-Cleaning Solvent Tax – Article 5D

G.S. 105-187.9(a) – Tax Imposed: This subsection is amended and provides, in part, “. . . [a]n excise tax is imposed on dry-cleaning solvent purchased for storage, use, or consumption by a dry-cleaning facility in this State. . .” regardless if the dry-cleaning solvent was purchased inside or outside the State.

(Effective August 11, 2017; SB 628, s. 2.9.(g), S.L. 2017-204.)

CERTAIN MACHINERY AND EQUIPMENT



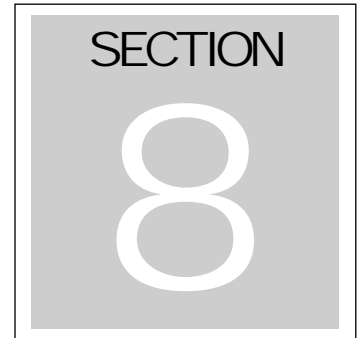
Certain Machinery and Equipment – Article 5F

Article 5F – Certain Machinery and Equipment: The entirety of Article 5F, Certain Machinery and Equipment, of Chapter 105 of the North Carolina General Statutes is repealed. Therefore, sales and purchases of qualifying mill machinery, mill machinery parts or accessories, and other items for specific industries on or after July 1, 2018 are no longer subject to the one percent (1%) privilege tax. The final Form E-500J, Machinery and Equipment Tax Return, should be filed for the month ending June 30, 2018 or the quarter ending June 30, 2018, depending on the existing filing frequency for the account number. The Department will programmatically close all active Certain Machinery and Equipment accounts as of June 30, 2018 in its system; therefore, the Form NC-BN, Out-of-Business Notification, is not required to be submitted along with the final return for a filing period ending June 30, 2018.

See the sales and use tax exemptions under G.S. 105-164.13(5e) through (5n) under the Sales and Use Tax section of this publication for additional information.

(Effective July 1, 2018, and applies to sales made on or after that date; SB 257, s. 38.8.(a), S.L. 2017-57.)

SOLID WASTE DISPOSAL TAX

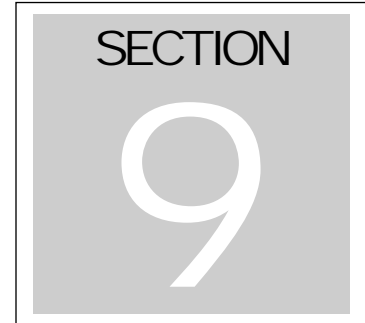


Solid Waste Disposal Tax – Article 5G

Study Solid Waste Disposal Tax: The Environmental Review Commission shall study North Carolina's solid waste disposal tax imposed under Article 5G of Chapter 105 of the General Statutes. In conducting this study, the Commission shall examine (i) a detailed history of the annual revenue generated from the tax and its distribution over time to the Department of Environmental Quality and local governments; (ii) a detailed history of expenditures by the Department of Environmental Quality and by local governments of tax proceeds received to date, including to whom and for what purposes the expenditures were made; (iii) all work completed by the Department of Environmental Quality using proceeds of the tax, including detailed information on the location of sites at which work was performed and a summary of the status of the sites; (iv) plans for future work to be conducted by the Department of Environmental Quality using proceeds of the tax, including detailed information on sites to be addressed and proposed schedules for work; (v) the current balance of the Inactive Hazardous Sites Cleanup Fund; and (vi) any other issue the Commission deems relevant. The Environmental Review Commission shall report its findings and recommendations, including any legislative proposals, to the 2018 Regular Session of the 2017 General Assembly upon its convening.

(Effective July 1, 2017, and applies to taxes collected on or after that date; SB 257, s. 13.5., S.L. 2017-57.)

LOCAL GOVERNMENT



Local Government

G.S. 105-275.49 - Property Classified and Excluded from the Tax Base:

(49) A mobile classroom or modular unit that is occupied by a school and is wholly and exclusively used for educational purposes, as defined in G.S. 105-278.4(f), regardless of the ownership of the property. For the purposes of this subdivision, the term "school" means a public school, including any school operated by a local board of education in a local school administrative unit; a nonprofit charter school; a regional school; a nonprofit nonpublic school regulated under Article 39 of Chapter 115C of the General Statutes; or a community college established under Article 2 of Chapter 115D of the General Statutes.

(Effective July 1, 2018; SB 628, s. 5.4(a), S.L. 2017-204)

G.S 105-277.3(a) - Agricultural, Horticultural, and Forestland – Classifications:

(a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, grazing fees for livestock, the sale of bees or products derived from beehives other than honey, any payments received under a governmental soil conservation or land retirement program

and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

(Effective July 12, 2017; SB 615, s. 3(a), S.L. 2017-108)

G.S. 105-288(d) Expenses: The members of the Property Tax Commission shall receive travel and subsistence expenses in accordance with G.S. 138-5 and a salary as provided for by the Commission when hearing cases, meeting to decide cases, and attending training or continuing education classes on property taxes or judicial procedure. The members of the Property Tax Commission whose salaries or any portion of whose salaries are paid from State funds shall not receive travel and subsistence expenses, in accordance with G.S. 138-5(f), but shall receive a salary as provided for by the Commission under this subsection. The Secretary of Revenue shall supply all the clerical and other services required by the Commission. All expenses of the Commission and the Department of Revenue in performing the duties enumerated in this Article shall be paid as provided in G.S. 105-501.

(Effective retroactive to April 1, 2017; HB 770, s. 2(a), S.L. 2017-206)

G.S. 105-330.3(a1) - Unregistered Vehicles: The owner of an unregistered classified motor vehicle must list the vehicle for taxes by filing an abstract with the assessor of the county in which the vehicle is located on or before January 31 following the date the owner acquired the unregistered vehicle or, in the case of a registration that is not renewed, January 31 following the date the registration expires, and on or before January 31 of each succeeding year that the vehicle is unregistered. If a classified motor vehicle required to be listed pursuant to this Senate Bill 628 Session Law 2017-204 Page 41 subsection is registered before the end of the fiscal year for which it was required to be listed, the following applies:

- (2) For any months for which the vehicle was not taxed between the date the registration expired and the start of the current registered vehicle tax year, the vehicle is taxed as an unregistered vehicle as follows:
 - a. The value of the motor vehicle is determined as of January 1 of the year in which the taxes are computed.
 - d. The taxes are due on September 1 following the date the notice was prepared. Taxes are payable at par or face amount if paid before January 6 following the due date. Taxes paid on or after January 6 following the due date are subject to interest charges. Interest accrues on taxes paid on or after January 6 pursuant to G.S. 105-360.

(Effective July 1, 2017; SB 628, s. 5.1(a), S.L. 2017-204)

G.S. 105-330.6(C) - Surrender of Plates: If the owner of a classified motor vehicle, who pays the tax as required by G.S. 105-330.4(a), either transfers the motor vehicle to a new owner or moves out-of-state and registers the vehicle in another jurisdiction, and the owner surrenders the registration plates from the listed vehicle to the Division of Motor Vehicles, then the owner may apply for a release or refund of taxes on the vehicle for any full calendar months remaining in the vehicle's tax year after the date of surrender. To apply for a release or refund, the owner must present to the county tax collector within one year after surrendering the plates the receipt received from the Division of Motor Vehicles accepting surrender of the registration plates. The county tax collector shall then multiply the amount of the taxes for the tax year on the vehicle by a fraction, the denominator of which is the number of months in the tax year and the numerator of which is the number of full calendar months remaining in the vehicle's tax year after the date of surrender of the registration plates. The product of the multiplication is the amount of taxes to be released or refunded. If the taxes have not been paid at the date of application, the county tax collector shall make a release of the prorated taxes and credit the owner's tax notice with the amount of the release. If the taxes have been paid at the date of application, the county tax collector shall direct an order for a refund of the prorated taxes to the county finance officer, and the finance officer shall issue a refund to the vehicle owner."

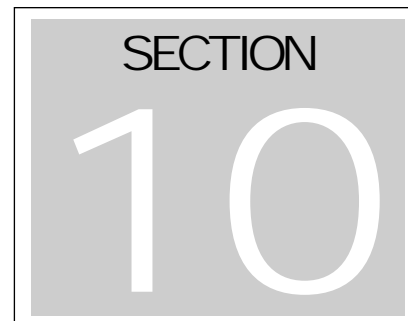
(Effective July 1, 2017; SB 628, s. 5.2, S.L. 2017-204)

G.S 105-338(a) - State Board's Duty: For purposes of taxation by local taxing units in this State, the Department of Revenue shall allocate the valuations of public service company property among the local taxing units in accordance with the provisions of this section. In no event, however, shall the State Board make an allocation to a taxing unit if, when computed, the valuation for that taxing unit amounts to less than five hundred dollars (\$500.00).

G.S 105-338(c) (1) – Property of Bus Line, Motor Freight Carrier, and Airline Companies: The appraised valuation of a bus line company's rolling stock is allocated for taxation to each local taxing unit according to the ratio of the company's scheduled miles during the calendar year preceding January 1 in each unit to the company's total scheduled miles in this State for the same period. In no event, however, shall the State Board make an allocation to a taxing unit if, when computed, the valuation for that taxing unit amounts to less than five hundred dollars (\$500.00).

(Effective July 1, 2017; SB 628, s. 5.3, S.L. 2017-10)

GENERAL ADMINISTRATION



GENERAL ADMINISTRATION – ARTICLE 9

G.S. 105-228.90(b)(1b) – Reference to the Internal Revenue Code Updated: State law defines the Internal Revenue Code as the Code enacted as of a certain date. When our State law’s reference date to the Code is updated each year, that change conforms North Carolina law to federal law that has been enacted as of that date, except for any items for which specific adjustments are required by State law.

This subdivision was amended to update the reference to the Internal Revenue Code from January 1, 2016 to January 1, 2017. Notwithstanding the effective date, any amendments to the Internal Revenue Code enacted after January 1, 2016 that increase North Carolina taxable income for the 2016 taxable year become effective for the tax year 2017.

(Effective June 21, 2017; HB 59, s. 1, S.L. 2017-39.)

G.S. 105-236(a)(9b) – Penalty for Identity Theft: G.S. 105-236(a) provides the authority to the Secretary to assess civil and criminal penalties against taxpayers. This statute was updated to add new subdivision (9b) to create a new crime for identity theft in the tax statutes. Currently, a person can be prosecuted for identity theft under Article 19C of Chapter 14 of the General Statutes. Under G.S. 14-113.20, an element of the crime is that the person must represent themselves as another person. Under the new tax statute, the person does not have to represent themselves as another person, instead it is sufficient if the person fraudulently utilizes identifying information of another person in a submission to the Department to obtain anything of value, benefit, or advantage for themselves or another.

New G.S. 105-236(a)(9b) provides that a person who knowingly obtains, possesses, or uses identifying information of another person, living or dead, with the intent to fraudulently utilize that information in a submission to the Department to obtain anything of value, benefit, or advantage for themselves or another is guilty of a Class G felony. If the person whose identifying information is obtained, possessed, or used by another in this manner suffers any adverse financial impact as a proximate result of the offense, then the person who obtained, possessed, or used the identifying information is guilty of a Class F felony. In addition, each person’s identity obtained, possessed, or used counts as a separate offense.

For purposes of G.S. 105-236(a)(9b), the term "identifying information" includes any of the following:

- Legal name.
- Date of birth.
- Social Security Number.
- Taxpayer Identification Number.
- Federal Identification Number.
- Bank account numbers.
- Federal or State tax or tax return information.

(Effective December 1, 2017 and applies to offenses committed on or after that date; SB 628, s. 3.1(a), S.L. 2017-204.)

G.S. 105-241.7(d) and (f) – Notice of Denied Refund: Subsections (d) and (f) of G.S. 105-241.7 were rewritten to make a conforming change because of a change enacted by the 2016 General Assembly to a taxpayer's request for a refund.

When the Department determines that a taxpayer requested a refund of an overpayment outside the statute of limitations, the Department issues a notice of denied refund. Under prior law, the taxpayer that requested a refund outside the statute of limitations, as determined by the Department, was not entitled to the refund and was not entitled to further administrative or judicial review of the Department's statute of limitations determination. The 2016 General Assembly changed the law to allow a taxpayer whose request for refund is denied because the Department determines that the request was filed outside the statute of limitations the right to appeal the Department's determination before the Office of Administrative Hearings ("OAH"). The final decision by the administrative law judge on the refund denial is subject to judicial review.

Under current law, the Department issues two types of "refund denial notices" that are subject to administrative review – (1) a notice of proposed denial of refund if the request for refund is filed by the taxpayer within the statute of limitations, and (2) a notice of denied refund if the request for refund is filed by the taxpayer outside the statute of limitations. The changes made by the 2017 General Assembly to subsection (d) and (f) insert language to reflect both types of denial notices.

Subsection (d) was rewritten to require the notice of proposed denial of refund and the notice of denied refund to contain the basis for the proposed denial (the stated basis for the denial does not limit the Department from changing the basis), and the circumstances under which the notice of proposed denial of refund will become final. Subsection (f) was rewritten to provide that the notice of proposed denial of refund and the notice of denied refund are presumed to be correct.

(Effective August 11, 2017 and applies to requests for review filed on or after that date and to requests for review pending on that date for which the Department reissues a request for additional information, allows the taxpayer time to respond by the requested response date, and provides notification to the taxpayer that failure to timely respond to the request will result in the request for review being subject to the provisions of G.S. 105-241.13A; SB 628, s. 4.1(a), S.L. 2017-204.)

G.S. 105-241.11 – Procedure for Requesting Review of a Proposed Denial of Refund or Proposed Assessment: This section, which provides a taxpayer who objects to a proposed denial of refund or a proposed assessment of tax with the authority to request a Departmental review of the proposed action, was amended twice by the 2017 General Assembly.

Subsection (a) was rewritten to require a taxpayer who objects to a proposed denial of a refund or a proposed assessment of tax to provide an explanation for the basis of the taxpayer's request for review. This explanation, however, does not prevent the taxpayer from raising other grounds for objecting to the Department's proposed denial of refund or proposed assessment during the Departmental review.

Subsection (c) was rewritten to add clarifying language regarding a request for review of a failure to pay penalty. Under current law, a taxpayer that does not request a review of proposed assessment may not request a review of the failure to pay penalty based on that assessment. This provision was rewritten to insert language to clarify that the failure to pay penalty is a separate notice issued by the Department if the proposed assessment is not paid within 45 days of the date of the notice of the proposed assessment.

(Effective August 11, 2017 and applies to requests for review filed on or after that date and to requests for review pending on that date for which the Department reissues a request for additional information, allows the taxpayer time to respond by the requested response date, and provides notification to the taxpayer that failure to timely respond to the request will result in the request for review being subject to the provisions of G.S. 105-241.13A; SB 628, s. 4.1(b), S.L. 2017-204.)

G.S. 105-241.13 – Action on Request for Review: This section, which addresses the Department's actions on timely requests for Departmental review, was amended several times by the 2017 General Assembly but the substance of the law effectively remains the same.

Under prior law, G.S. 105-241.13(a) required the Department to take one of three actions: (1) grant the refund or remove the assessment; (2) schedule a conference with the taxpayer; or (3) request additional information from the taxpayer.

G.S. 105-241.13(a)(2) was rewritten to clarify that the Department can adjust the amount of tax due or refund owed prior to scheduling a conference with a taxpayer.

G.S. 105-241.13(a)(3) was rewritten to clarify that when the Department requests additional information from a taxpayer concerning a requested refund or proposed assessment and that taxpayer makes no response to the Department's request for additional information by the requested response date, the Department must reissue the request. The Department must give the taxpayer at least 30 days to respond to the Department's initial request for additional information and to the reissuance of the request for additional information. If the taxpayer makes no response to the reissuance of the request for additional information by the requested response date, the refund or assessment is subject to the provisions of new G.S. 105-241.13A.

New subsection (a1) was added to provide that if a taxpayer timely requests a Departmental review but thereafter pays the amount of tax due, the Department may accept the payment of tax and take no further action on the request for review, unless the taxpayer states in writing that the taxpayer wishes to continue the review. A situation like this may occur when a taxpayer wants to stop the accrual of interest on a proposed assessment.

Under prior law, G.S. 105-241.13(b) required the Department to schedule a conference with a taxpayer if the Department's review of a proposed denial of refund or proposed assessment did not result in granting the refund requested by the taxpayer or removing the assessment proposed against the taxpayer. As rewritten, subsection (b) requires the Department to schedule a conference with taxpayer when the Department and the taxpayer agree that none of the actions required under G.S. 105-241.13(a) or (a1) resolves the taxpayer's objections. Additional language was also inserted into G.S. 105-241.13(b) to make it clear that a taxpayer may present any objections to a proposed denial of refund or proposed assessment at the conference and the taxpayer is not limited by the explanation set forth in the taxpayer's request for review.

(Effective August 11, 2017 and applies to requests for review filed on or after that date and to requests for review pending on that date for which the Department reissues a request for additional information, allows the taxpayer time to respond by the requested response date, and provides notification to the taxpayer that failure to timely respond to the request will result in the request for review being subject to the provisions of G.S. 105-241.13A; SB 628, s. 4.1(d), S.L. 2017-204.)

G.S. 105-241.13A – Taxpayer Inaction: Prior law did not statutorily address the consequences of a taxpayer's inaction when a taxpayer who timely requests a Departmental review of a proposed denial of refund or proposed assessment makes no response to the Department's request for additional information.

Subsection (a) of new G.S. 105-241.13A provides that inaction by a taxpayer after timely filing a request for review results in the proposed denial of refund or the proposed assessment becoming final. "Inaction" means that the taxpayer made no response to the Department's initial request for additional information or to the reissuance of the request by the requested response date. The Department must give the taxpayer at least 30 days to respond to the Department's initial request for additional information and to the reissuance of the request for additional information. A partial response, a

request for additional time, or any other contact by the taxpayer with the Department does not constitute taxpayer inaction. If there is no response to the Department's second attempt to obtain additional information, the Department must issue a notice of inaction, which gives the taxpayer a final ten (10) days to respond to the Department. If there is no response to the notice of inaction, then the proposed denial of refund or the proposed assessment becomes final. Once final, a proposed denial of refund or a proposed assessment is not subject to further administrative or judicial review. A taxpayer whose proposed denial of refund becomes final may not file another amended return or refund claim to obtain the denied refund. The Department may proceed with collection efforts against a taxpayer for the amount of tax due. Upon payment of the tax, the taxpayer may request a refund of the tax paid pursuant to the provisions of G.S. 105-241.7.

Subsection (b) of new G.S. 105-241.13A requires the Department to send a taxpayer a notice of collection before it attempts to collect a tax. The notice must contain (1) a statement that the proposed assessment is final and collectible; (2) the amount of tax, interest, and penalties due; and (3) an explanation of the collection options available to the Department if the taxpayer does not pay the liability reflected on the notice and any remedies available to the taxpayer concerning these collection options.

Subsection (c) of new G.S. 105-241.13A provides that a response to either the Department's initial request for additional information, the reissuance of the Department's request for additional information, or the notice of inaction is considered filed on the following dates: (1) for a response that is delivered in person, the date the response is delivered; (2) for a response that is mailed, the date determined in accordance with G.S. 105-263; or (3) for a response delivered by another method, the date the Department receives it.

(Effective August 11, 2017 and applies to requests for review filed on or after that date and to requests for review pending on that date for which the Department reissues a request for additional information, allows the taxpayer time to respond by the requested response date, and provides notification to the taxpayer that failure to timely respond to the request will result in the request for review being subject to the provisions of G.S. 105-241.13A; SB 628, s. 4.1(c), S.L. 2017-204.)

G.S. 105-241.16 – Judicial Review of Decision after Contested Case Hearing: This statute was clarified to reflect current practice regarding the ability of either the taxpayer or the Department to seek judicial review of a final decision issued in a contested case commenced in the Office of Administrative Hearings. The clarification conforms to changes previously made by the General Assembly that made the Office of Administrative Hearings, rather than the Department, the issuer of final decisions and allows any party aggrieved by a final decision in a contested case to seek judicial review.

(Effective retroactively to January 1, 2012, and applies to contested cases commenced on or after that date; SB 628, s. 4.1(e), S.L. 2017-204.)

G.S. 105-241.22 – Collection of Tax: This statute provides the circumstances whereby the Department may collect a tax. Under prior law, the Department can collect a tax when (1) a taxpayer files a return showing tax due on the return and does not pay the amount shown due; (2) the Department sends a notice of collection after the taxpayer does not file a timely request for a review of a proposed assessment; (3) the taxpayer and the Department agree on a settlement concerning the amount of tax due; (4) the Department issues a notice of final determination with respect to a proposed assessment and the taxpayer does not file a timely petition for a contested case hearing; (5) a final decision is issued on a proposed assessment of tax after a contested case hearing; or (6) the Office of Administrative Hearings dismisses a petition for a contested case for lack of jurisdiction because the issue is the constitutionality of a statute.

The 2017 General Assembly made a conforming change to subdivision (2) to require the Department to send a notice of collection after a taxpayer does not file a timely request for Departmental review of a proposed assessment of tax or after a taxpayer does not respond to the Department’s request for additional information pursuant to the terms of new G.S. 105-241.13A.

(Effective August 11, 2017 and applies to requests for review filed on or after that date and to requests for review pending on that date for which the Department reissues a request for additional information, allows the taxpayer time to respond by the requested response date, and provides notification to the taxpayer that failure to timely respond to the request will result in the request for review being subject to the provisions of G.S. 105-241.13A; SB 628, s. 4.2, S.L. 2017-204.)

G.S. 105-244.3 – Sales Tax Base Expansion Protection Act: This section is added to Article 9 of Chapter 105 of the General Statutes and a complete explanation is located under Special Provisions of the Sales and Use Tax section of this document.

(Effective August 11, 2017; SB 628, s. 2.8.(c), S.L. 2017-204.)

G.S. 105-244.4 – Reduction of Certain Tax Assessments: This section is added to Article 9 of Chapter 105 of the General Statutes and a complete explanation is located under Special Provisions of the Sales and Use Tax section of this document.

(Effective August 11, 2017; SB 628, s. 2.8A, S.L. 2017-204; SB 582, s. 7.1.(a), S.L. 2017-212.)

G.S. 105-251.2 – Compliance Information Request: This statute, which requires certain entities to provide information to the Secretary upon request, was amended twice by the 2017 General Assembly.

New subsection (c) requires a payment settlement entity that is required to file a return with the Internal Revenue Service (“IRS”) to also submit the information to the Department at the same time the information is filed with the IRS. The term “payment settlement entity” has the same meaning as provided in section 6050W of the Code.

New subsection (d) requires all reports submitted to the Department under this section to be an electronic format. Any report not timely filed is subject to a penalty of \$1000.00.

(Effective August 11, 2017, SB 628, s. 3.2, S.L. 2017-204.)

G.S. 105-259(b)(15) – Exception to Prohibition of Disclosure: This subdivision is rewritten to add “and Juvenile Justice” to “Division of Adult Correction.” This amendment reflects the fact that the Division of Adult Correction and the Division of Juvenile Justice have been operating as a single Division of Adult Correction and Juvenile Justice.

(Effective July 25, 2017; SB 344, s. 2(u), S.L. 2017-186.)

G.S. 105-259(b)(39a) – Exception to Prohibition of Disclosure: This subdivision was added to allow the Department to provide copies of a beneficiary’s State tax return, wage and income statement, or other information upon request by the Retirement Systems Division for use in compliance and fraud investigations.

The Department and the Department of State Treasurer shall no later than June 30, 2018 develop and implement an information exchange system. The two departments shall enter into a confidential information sharing agreement settling transfer protocols, required security measures, audit mechanisms, and other measures designed to protect confidential information.

(Effective July 20, 2017; HB 176, s. 6(a) & (b), S.L. 2017-128.)

G.S. 105-259(b)(39a) – Exception to Prohibition of Disclosure: This subdivision was added to allow the Department to furnish the Department of State Treasurer periodically upon request, the State tax return of a beneficiary, the wage and income statement of a beneficiary, or the NC-3 information of an employer for the purpose of assisting fraud or compliance investigations.

The Department and the Department of State Treasurer shall no later than June 30, 2018 enter into a confidential information sharing agreement settling data transfer protocols, required security measures, audit mechanisms, and the like, so that the two departments can thereafter develop and implement the information exchange authorized by this subdivision.

(Effective July 20, 2017; HB 299, s. 7(a) & (b), S.L. 2017-135.)

G.S. 105-259(b)(45) – Exception to Prohibition of Disclosure: This subdivision is rewritten to change an incorrect reference in the statute from G.S. 143B-1381 to G.S. 143B-1385.

(Effective August 11, 2017; SB 628, s. 4.7, S.L. 2017-204.)

G.S. 105-259(b)(53) – Exception to Prohibition of Disclosure: This subdivision was added to allow the Department to provide State tax information that relates to noncustodial parent location information to the Office of Child Support and Enforcement of the Department of Health and Human Services as required under federal law. This agreement to share information has previously existed with DHHS through a memorandum of understanding but has since expired.

(Effective August 11, 2017; SB 628, s. 4.7, S.L. 2017-204.)

G.S. 105-259(b)(53) – Exception to Prohibition of Disclosure: This subdivision was added to allow the Department to provide State tax information that relates to employee misclassification pursuant to new Article 82 of Chapter 143 to the Department of Labor, the Division of Employment Security within the Department of Commerce, the North Carolina Industrial Commission, and the Employee Classification Section within the Industrial Commission.

(Effective December 31, 2017; SB 407, s. 2, S.L. 2017-203.)

G.S. 105-269.8 – Contribution by Individual for Early Detection of Breast and Cervical Cancer: This new statute was added to allow individual taxpayers to contribute some or all of their income tax overpayment to the Department of Health and Human Services (“DHHS”), to be used for the early detection of breast and cervical cancer in accordance with the NC Breast and Cervical Cancer Control Program. The contribution is irrevocable once the individual files the income tax return for the taxable year.

(Effective August 11, 2017, SB 628, s. 6.2(a), S.L. 2017-204.)