



**NORTH CAROLINA  
DEPARTMENT OF REVENUE**

**2009 TAX LAW CHANGES**



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

**501 N. Wilmington Street  
PO Box 871  
Raleigh, NC 27602-0871**

## PREFACE

This document is designed for use by personnel in the North Carolina Department of Revenue. It is available to those outside the Department as a resource document. It gives a brief summary of the tax law:

- changes made by prior General Assemblies that take effect for tax year 2009, as well as,
- changes made by the 2009 General Assembly, regardless of when they take effect.

The local sales and use tax changes follow the State sales and use tax changes. The document does not include law changes that affect the Department of Revenue but do not affect the tax laws.

For further information on a tax law change, refer to the legislation that made the change. Administrative rules, bulletins, directives, and other instructions issued by the Department, as well as opinions issued by the Attorney General's Office, may provide further information on the application of a tax law change.

Michael Houser  
Acting Assistant Secretary  
for Tax Administration

# TABLE OF CONTENTS

## Section 1 - PERSONAL TAXES

### Individual Income Tax

G.S. 105-134.2A – Income Tax Surtax	1
G.S. 105-134.6(b)(17a) – Future Deduction for Bonus Depreciation Add-Back	2
G.S. 105-134.6(b)(20) – Future Deduction for Deferred Income Add-Back	2
G.S. 105-134.6(c)(8a) - Bonus Depreciation Add-Back	2
G.S. 105-134.6(c)(11) - Real Property Tax Add-Back by Nonitemizers	3
G.S. 105-134.6(c)(12) - Motor Vehicle Sales Tax Add-Back	3
G.S. 105-134.6(c)(13) – Addition to Federal Taxable Income for Amounts Excluded as Deferred Income	3
G.S. 105-134.6(c)(14) – Add-Back of Deduction for Original Issue Discount on an Applicable High Yield Discount Obligation	4
G.S. 105-151.12 – Credit for Certain Real Property Donations	4
G.S. 105-151.29 – Credit for Qualifying Expenses of a Production Company	4
G.S. 105-151.31 – Refundable Earned Income Tax Credit Increased	5

### Tax Credits for Qualified Business Investments

G.S. 105-163.011(b),(b1),(c), and 105-163.012(a) – Clarifying Changes	5
---	---

### Withholding Tax

G.S. 105-163.1 – Article 4A Withholding Definitions	5
G.S. 105-163.3 – Requirement to Withhold on Contractors Identified by an Individual Taxpayer Identification Number (ITIN)	6

### Job Development Investment Grant Program

G.S. 143B, Article 10, Part 2G	7
--------------------------------	---

### Lottery Act

G.S. 18C-134(b) – Notification	7
G.S. 18C-134(e) – Confidentiality	7

## Section 2 - CORPORATE, EXCISE AND INSURANCE TAXES

### Privilege Taxes

G.S. 105-40(7A) – Clarifying Change	8
G.S. 105-41(a)(12) – Clarifying Change	8
G.S. 14-344.1 – Internet Ticket Resellers, Sunset repealed	8

### Tobacco Products Tax

Chapter 58, Article 92 – Fire Safe Cigarettes	9
G.S. 58-92-15(p) – Fire Safe Cigarettes Standards Clarification	9
G.S. 105-113.4(3) – Definition of Distributor	9
G.S. 105-113.4(6) – Definition of Manufacturer	9

## **Tobacco Products Tax**

G.S. 105-113.4(14) – Technical Change	9
G.S. 105-113.4D – Floor Tax Extended to Other Tobacco Products	10
G.S. 105-113.5 – Tax on Cigarettes	10
G.S. 105-113.35 – Tax on Other Tobacco Products	10
G.S. 105-113.35(d1) – Sales Between Integrated Wholesale Dealers Prohibited	10
G.S. 105-113.37(d) – Shipping Report	10
G.S. 105-113.40A – Use of Tax Proceeds	10

## **Alcoholic Beverage License and Excise Taxes**

G.S. 105-113.80(a) – Beer Excise Tax Increase	11
G.S. 105-113.80(b) – Wine Excise Tax Increase	11
G.S. 105-113.80(c) – Liquor Excise Tax Increase	11
G.S. 105-113.81A – Distribution to NC Wine & Grape Growers Council Repealed	11
G.S. 105-113.82(a) – Distribution of Alcoholic Beverage Taxes	11
G.S. 105-113.82 – Temporary Additional Reduction in Distribution of Alcoholic Beverage Taxes	11

## **Franchise Tax**

G.S.105-122(b1) – Technical Change	12
G.S.105-122(b)(1a)– Billings in Excess of Costs	12

## **Business and Energy Tax Credits**

G.S. 105-129.15(7)e. and G.S. 105-129.15(7)f. – Renewable Energy Property Definition Expanded	12
G.S. 105-129.16A(c)(2)d. – Renewable Energy Property Credit Ceiling	12
G.S. 105-129.16A(e) – Sunset for Renewable Energy Property	13
G.S. 105-129.17(a) – Tax Election	13

## **Tax Credits for Growing Businesses**

G.S. 105-129.27(f) – No Double Credit	13
G.S. 105-129.83(m) – No Double Benefit	13
G.S. 143B-437.08(i) – Development Tier Designation	13

## **Corporation Income Tax**

G.S. 105-130.3B – Income Tax Surtax	14
G.S. 105-130.4(h) – Conforming Change	14
G.S. 105-130.4(i) – Conforming Change	14
G.S. 105-130.4(s1) – Special Apportionment Formula for a Qualified Capital Intensive Corporation	14
G.S. 105-130.4(t1) – Technical Change	15
G.S. 105-130.5(a)(15a) – Bonus Depreciation Add-Back	15
G.S. 105-130.5(a)(21) – Deferred Cancellation of Indebtedness Add-Back	16
G.S. 105-130.5(a)(22) – Original Issue Discount on Applicable High Yield Discount Obligation	16
G.S. 105-130.5(b)(21a) - Future Deduction for 50% First-Year Accelerated Depreciation Add-Back	16
G.S. 105-130.5(b)(25) – Deduction for Deferred Cancellation of Indebtedness	16
G.S. 105-130.16(a) – Conforming and Technical Changes	17
G.S. 105-130.18 – Failure to File Returns	17
G.S. 105-130.34(a) – Clarifying Change	17
G.S. 105-130.47(b1) – Alternative Credit for Qualifying Expenses of a Production Company	17

## Corporation Income Tax

G.S. 105-130.47(h) – Technical Change	18
---------------------------------------	----

## Insurance Gross Premiums Tax

G.S. 58-6-25 – Insurance Regulatory Charge	18
G.S. 105-228.5B – Transfer of Proceeds to High Risk Pool	18

## General Administration

G.S. 105-228.90(b)(b1) – Reference to the Internal Revenue Code Updated	18
G.S. 105-259(b) – Disclosure of Selection Standards	19
G.S. 105-259(b)(20) – Disclosure to the Environmental Management Commission	19
G.S. 105-259(b)(39) – Disclosure to State Treasurer	19

## Section 3 - SALES AND USE TAX

### Sale and Use Tax

G.S. 105-164.3 – Definitions	21
G.S. 105-164.4(a) – Increase in State Sales Tax Rate	25
G.S. 105-164.4(a)(6b) – Tax on Digital Property	26
G.S. 105-164.4(a)(1j) – Tax on Electricity Sold to Manufacturers and Farmers	26
G.S. 105-164.4B(d) – Sourcing Principles	27
G.S. 105-164.6 – Complementary Use Tax	27
G.S. 105-164.6A(a) – Voluntary Collection Agreements	27
G.S. 105-164.7 – Retailer to Collect Sales Tax from Purchaser as Trustee for State	27
G.S. 105-164.8 – Retailer's Obligation to Collect Tax; Remote Sales Subject to Tax	28
G.S. 105-164.11(e) – Reliance on Written Advice	28
G.S. 105-164.13 – Exemptions and Exclusions	28
G.S. 105-164.13B(a) – State Sales Tax Exemption for Certain Bakery Items	30
G.S. 105-164.14(b) – Nonprofit Entities and Hospital Drugs	31
G.S. 105-164.14(b)(1) – Nonprofit Entities and Hospital Drugs	31
G.S. 105-164.14(b)(2a) – Nonprofit Entities and Hospital Drugs	31
G.S. 105-164.14(c)(23) – Certain Governmental Entities	31
G.S. 105-164.14(j)(2)n. – Certain Industrial Facilities	31
G.S. 105-164.15A(a) – Effective Date of Tax Changes on Services and Items Taxed at Combined General Rate	32
G.S. 105-164.16 – Returns and Payment of Taxes	32
G.S. 105-164.16(d) – Use Tax on Out of State Purchases	32
G.S. 105-164.16(e) – Simultaneous State and Local Changes	32
G.S. 105-164.22 – Record-Keeping Requirements, Inspection Authority, and Effect of Failure to Keep Records	32
G.S. 105-164.23 – Consumer Must Keep Records	33
G.S. 105-164.24 – Separate Accounting Required	33
G.S. 105-164.25 – Wholesale Merchant Must Keep Records	33
G.S. 105-164.26 – Presumption that Sales are Taxable	33
G.S. 105-164.27A(a) – Direct pay permit	33
G.S. 105-164.28 – Certificate of Resale	33
G.S. 105-164.28A(a) – Other exemption certificates	33
G.S. 105-164.29(a) – Application for certificate of registration	34
G.S. 105-164.31 – Complete Records Must Be Kept for Three Years	34
G.S. 105-164.32 – Incorrect returns; estimate	34
G.S. 105-164.44E – Transfer to the Dry-Cleaning Solvent Cleanup Fund	34

G.S. 105-164.44F – Distribution of part of telecommunications taxes to cities	34
G.S. 105-164.44G – Distribution of part of tax on modular homes	34
G.S. 105-164.44I – Distribution of part of sales tax on video programming and telecommunications	35
Chapter 323 of the 2007 Session Laws-Transfer for Wildlife Resources	35

## **Local and Sales and Use Tax**

G.S. 105-472(b)(3) – Distribution Between Counties and Cities	35
G.S. 105-487 – Use of Additional Tax Revenue by Counties	35
G.S. 105-501 – Distribution of Second One-Half Percent Local Sales and Use Tax	35
G.S. 105-502 – Use of Additional Tax Revenue by Counties	36
G.S. 105-502– (Effective October 1, 2009) Use of Additional Tax Revenue by Counties	36
G.S. 105-505 – Local Government Sales and Use Tax for Public Transportation	36
G.S. 105-506 – Definitions	36
G.S. 105-507 – Limitations	37
G.S. 105-508 – Local Election on Adoption	37
G.S. 105-509 – Levy and Collection	37
G.S. 105-510 – Distribution and Use of Taxes	37
G.S. 105-510.1 – Applicability	37
G.S. 105-510.5 – Special Districts	37
G.S. 105-510.6 – Limitations	37
G.S. 105-510.7 – Distribution and Use of Taxes	38
G.S. 105-510.8 – Local Election on Adoption of Sales and Use Tax	38
G.S. 105-510.9 – Levy and Collection of Sales and Use Tax	38
G.S. 105-510.10 – Local Election on Adoption of Sales and Use Tax	38
G.S. 105-510.11 – Levy and Collection of Sales and Use Tax	39
G.S. 105-510.12 – Applicability	39
G.S. 105-510.13 – Limitations	39
G.S. 105-510.14 – Local Election on Adoption of Sales and Use Tax	39
G.S. 105-510.15 – Levy and Collection of Sales and Use Tax	39
G.S. 105-510.16 – Distribution and Use of Taxes	40
G.S. 105-515 through 105-520 – Third One-Half Percent Local Sales and Use Tax Repealed	40
G.S. 105-522 – City Hold Harmless for Repealed Local Taxes	40
G.S. 105-522(a)(2) – City Hold Harmless for Repealed Local Taxes	41
G.S. 105-523 – County Hold Harmless for Repealed Local Taxes	41
G.S. 105-523(b)(2) – County Hold Harmless for Repealed Local Taxes	42
G.S. 105-523(b)(3) – County Hold Harmless for Repealed Local Taxes	42
G.S. 105-538 – Administration of Taxes	42
Chapter 323 of the 2007 Session Laws – Reduction of Third One-Half Percent Local Sales and Use Tax	42
Chapter 323 of the 2007 Session Laws – Article 44 Title	42
Chapter 1096 of the Session Laws, as Amended – Mecklenburg First 1% Sales Tax Act	43

## **Highway Use Tax – Article 5A**

G.S. 105-187.3(b1) – Retail Value	43
G.S. 105-187.6(a) – Exemptions	43
G.S. 105-187.6(a)7 – Exemptions	43

## **Scrap Tire Disposal Tax – Article 5B**

G.S. 105-187.19(b) – Use of Scrap Tire Tax Proceeds	44
---	----

<b>Dry-Cleaning Solvent Tax – Article 5D</b>	
G.S. 105-187.35 – Sunset of Dry-Cleaning Solvent Tax	44

<b>Manufacturing Fuel and Certain Machinery and Equipment – Article 5F</b>	
G.S. 105-187.50 – Definitions	44
G.S. 105-187.51A – Privilege Tax on Manufacturing Fuel	44
G.S. 105-187.51C(c) – Forfeiture of Privilege Tax Imposed on Datacenter Machinery and Equipment	45

<b>Solid Waste Disposal Tax- Article 5G</b>	
G.S. 105-187.63 – Use of Solid Waste Disposal Tax Proceeds	45

## **Section 4 – PROPERTY TAX**

### **Property Tax**

G.S. 105-273(3a) — Definition of Builder	46
G.S. 105-273(6) — Definition of Corporation	46
G.S. 105-275 — Property Classified and Excluded From the Tax Base	46
G.S. 105-277.1(d) — Homestead Exclusion	46
G.S. 105-277.1B — Property Tax Homestead Circuit Breaker	46
G.S. 105-277.1C — Disabled Veteran Property Tax Homestead Exclusion	47
G.S. 277.1D — Inventory Property Tax Deferral	47
G.S. 105-277.1F(a) — Tax Deferral	47
G.S. 105-277.14 — Repealed	48
G.S. 105-277.17 — Clarify the Valuation of Community Land Trust Property	48
G.S. 105-278.6(e) — Low or Moderate-Income Housing	48
G.S. 105-282.1(a) — Application for Property Tax Exemption or Exclusion	48
G.S. 105-282.1(a)(2)c — Application for Property Tax Exemption or Exclusion	48
G.S. 105-286 — Postpone a 2009 General Reappraisal	49
G.S. 105-317.2 — Report on Transfers of Real Property	49
G.S. 105-330 — Motor Vehicles	49
G.S. 105-361(a) — Property Tax Certificate	50
G.S. 160A-215.2 — Heavy Equipment Gross Receipts Tax in Lieu of Property Tax	50
G.S. 160A-417 — Payment of Delinquent Property Taxes	50
G.S. 161-31(b) — Payment of Delinquent Property Taxes	50

## **Section 5 – MOTOR FUELS**

### **Motor Fuels**

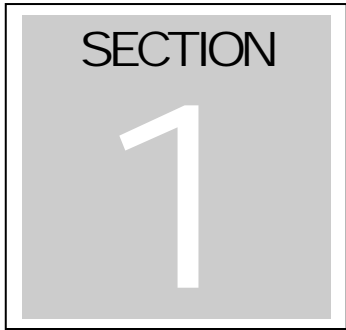
G.S. 105-449.45(a) – Reporting Requirement	51
G.S. 105-449.47A – Technical	51

## **Motor Fuels**

G.S. 105-449.72 – Bonding Requirement Exemption	51
G.S. 105-449.80(a) – Fuel Tax Rate Floor	51
G.S. 105-449.81 – Taxation of Fuel Grade Ethanol	51
G.S. 105-449.83A – Clarifying	51
G.S. 105-449.95 – Recodification	51
G.S. 105-449.105B – Refund Filing Requirement	52
G.S. 105-449.115 – Clarifying	52
G.S. 105-449.121(b)(2) – Technical	52
G.S. 105-449.136 – Technical	52



# PERSONAL TAXES



## Individual Income Tax

### **G.S. 105-134.2A – Income Tax Surtax:**

This section was added to impose a surtax on a taxpayer's North Carolina individual income tax as computed under G.S. 105-134.2. The surtax is due if North Carolina taxable income is greater than the amount shown below for the taxpayer's filing status:

Married filing jointly/qualifying widow(er)	\$ 100,000
Head of household	\$ 80,000
Single	\$ 60,000
Married filing separately	\$ 50,000

The surtax is in addition to the income tax imposed by G.S. 105-134.2 and is computed by multiplying North Carolina income tax by the applicable percentage shown in the table below.

### Surtax Percentage Table

<u>Filing Status</u>	<u>NC Taxable Income</u>	<u>Applicable Percentage</u>
Married Filing Jointly/ Qualifying Widow(er)	Greater than \$100,000 but does not exceed \$250,000	2%
	Greater than \$250,000	3%
Head of Household	Greater than \$80,000 but does not exceed \$200,000	2%
	Greater than \$200,000	3%
Single	Greater than \$60,000 but does not exceed \$150,000	2%
	Greater than \$150,000	3%
Married Filing Separately	Greater than \$50,000 but does not exceed \$125,000	2%
	Greater than \$125,000	3%

Notwithstanding G.S.105-163.15, no addition to tax may be made for tax years beginning on or after January 1, 2009 and before January 1, 2011, with respect to an underpayment of income tax to the extent the underpayment was created or increased by the surtax.

*(Effective for taxable years beginning on or after January 1, 2009 and expires for taxable years beginning on or after January 1, 2011; SB 202, ss. 27A.1.(b) and (c); S.L. 09-451.)*

**G.S. 105-134.6(b)(17a) – Future Deduction for Bonus Depreciation Add-Back:** This subdivision was amended to provide a deduction on future income tax returns for the 50% additional first-year depreciation deduction required to be added to federal taxable income under G.S. 105-134.6(c)(8a). A taxpayer may deduct 20% of the total amount of bonus depreciation added to federal taxable income in taxable year 2008 in each of the first five taxable years beginning on or after January 1, 2009. For taxpayers who made the addition for bonus depreciation on their 2009 returns, the deduction applies to the first five taxable years beginning on or after January 1, 2010.

*(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(e), S.L. 09-451.)*

**G.S. 105-134.6(b)(20) – Future Deduction for Deferred Income Add-Back:** Under the American Recovery and Reinvestment Act of 2009, P.L. 111-5, certain taxpayers may elect to defer reporting income from cancellation of debt in the current year and instead report the income ratably over a five-year period beginning in 2014. The General Assembly chose not to adopt this provision of federal law. Instead, G.S. 105-134.6(c)(13) requires an addition to federal taxable income in 2009 and 2010 for any amount of the income that was deferred.

This section was added to provide a future deduction from federal taxable income for the amount of income that was deferred under IRC section 108(i)(1). If the deferred income is added back on the 2009 or 2010 return, the deduction on the State return is allowed ratably over a five-year period beginning in 2014.

*(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(e), S.L. 09-451.)*

**G.S. 105-134.6(c)(8a) - Bonus Depreciation Add-Back:** The 2008 General Assembly added this subdivision to require a taxpayer to add to federal taxable income a percentage of the 50% first-year bonus depreciation deduction allowed for federal income tax purposes under §168(k) of the Internal Revenue Code under the Economic Stimulus Act of 2008. The applicable percentage is 85% of the bonus depreciation for the tax year 2008. Any taxpayer who claimed the bonus depreciation for federal purposes for the tax year 2007 and whose North Carolina return also reflected that deduction must also add back 85% of the deduction claimed for the tax year 2007 on the 2008 tax return.

The subdivision was amended during the 2009 Session of the General Assembly to extend the provision to include property placed in service before January 1, 2010. Additionally, a taxpayer must add to federal taxable income 85% of the 50% additional depreciation permitted pursuant to IRC §168(n) under the Emergency Economic

Stabilization Act of 2008. The provision also applies to property placed in service after December 31, 2007, but before January 1, 2010. Any taxpayer who claimed a §168(n) deduction for federal purposes on a 2008 return and whose North Carolina return also reflected that deduction must add back 85% of the deduction claimed for the tax year 2008 on the 2009 return.

The adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.

*(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(f), S.L. 09-451.)*

**G.S. 105-134.6(c)(11) - Real Property Tax Add-Back by Nonitemizers:** This subdivision was added by the 2009 General Assembly to require a taxpayer to add to federal taxable income the additional real property tax deduction claimed by a taxpayer under IRC section 63(c)(1)(C). This section of the Code allows a taxpayer who claims the standard deduction to claim an additional deduction for real property taxes paid.

*(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6. (f), S.L. 09-451.)*

**G.S. 105-134.6(c)(12) - Motor Vehicle Sales Tax Add-Back:** The American Recovery and Reinvestment Act of 2009, P.L. 111-5, allows taxpayers to claim a deduction for the sales or excise taxes paid for the purchase of new motor vehicles made on or after February 17, 2009 and before January 1, 2010. The deduction is allowable as an addition to the federal standard deduction under IRC section 63(c)(1)(E) or as an itemized deduction under section 164(a)(6).

The General Assembly chose not to adopt this provision of federal law. Therefore, this subdivision was added to require an addition to federal taxable income for the motor vehicle sales and excise taxes deducted for federal income tax purposes under IRC sections 63(c)(1)(E) or 164(a)(6).

*(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(f), S.L. 09-451.)*

**G.S. 105-134.6(c)(13) – Addition to Federal Taxable Income for Amounts Excluded as Deferred Income:** Generally, when a debt is settled for less than the amount owed, cancellation of indebtedness income is realized by the debtor and must be included in the debtor's federal gross income. However, the American Recovery and Reinvestment Act of 2009, P.L. 111-5, allows certain taxpayers to elect to recognize cancellation of indebtedness income ratably over five years beginning in 2014, for specified types of debt repurchased by a business after December 31, 2008 and before January 1, 2011.

The General Assembly chose not to follow this provision of federal law. Therefore, this subdivision was added to require an addition to federal taxable income for the amount of income deferred under IRC section 108(i)(1) from the cancellation of indebtedness in

connection with reacquisition of an applicable debt instrument. However, G.S. 105-134.6(b)(20) was added to provide a future deduction from federal taxable income for the deferred income added back on the 2009 or 2010 return. The deduction on the State return is allowed ratably over a five-year period beginning in 2014.

*(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(f), S.L. 09-451.)*

**G.S. 105-134.6(c)(14) – Add-Back of Deduction for Original Issue Discount on an Applicable High Yield Discount Obligation:** The American Recovery and Reinvestment Act of 2009, P.L. 111-5, includes a provision suspending the rules for the applicable high yield debt obligation (AHYDO) under IRC section 163(e)(5)(F) for certain debts issued after September 30, 2008 and before January 1, 2010. As a result, corporate and certain partnership debt that would have otherwise created deferred or non-deductible interest will instead provide immediate tax deductions to the issuer under general interest deductibility principles.

The General Assembly chose not to follow this provision of the Act. Therefore, an addition to federal taxable income is required for the amount deducted on the federal return.

*(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(f), S.L. 09-451.)*

**G.S. 105-151.12 – Credit for Certain Real Property Donations:** This section was amended to clarify that the credit allowed to individuals and pass-through entities for qualifying donations of real property applies to donations made during the taxable year.

*(Effective August 7, 2009; SB 509, ss. 9.(d) and (e), S.L. 09-445.)*

**G.S. 105-151.29 – Credit for Qualifying Expenses of a Production Company:** This section has been amended to allow a taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production, an alternative credit in lieu of the credit allowed under subsection (b) of this section.

Subsection (b) allows a credit equal to 15% of the production company's qualifying expenses incurred with respect to the production. The alternative credit added in subsection (b1) allows a credit equal to 25% of the production company's qualifying expenses less the difference between the amount of tax paid on purchases subject to tax under G.S. 105-187.51 and the amount of sales and use tax that would have been due had the purchases been subject to the sales and use tax at the combined rate under G.S. 105-164.3. A taxpayer must elect to claim the credit allowed under subsection (b) or subsection (b1) at the time the return on which the credit is claimed is filed. The election is binding.

The alternative credit allowed by subsection (b1) is effective for taxable years beginning on or after January 1, 2010, and applies to qualifying expenses occurring on or after that date.

*(Effective for tax years beginning on or after January 1, 2010; SB 943, ss. 2 and 3, S.L. 09-529.)*

**G.S. 105-151.31 – Refundable Earned Income Tax Credit Increased:** This section, which was added by the 2007 General Assembly, provided a refundable earned income tax credit equal to 3.5% of the federal earned income tax credit under Section 32 of the Internal Revenue Code. The credit was effective for tax years beginning on or after January 1, 2008.

*(Effective for taxable years beginning on or after January 1, 2008, and expires for taxable years beginning on or after January 1, 2013; HB 1473, ss. 31.4(a) and (b); S.L. 07-323.)*

This section was subsequently amended by the 2008 Session Laws to increase the earned income tax credit from 3.5% to 5% of the amount of credit the individual qualified for under section 32 of the Code. This change is effective for taxable years beginning on or after January 1, 2009.

*(Effective for taxable years beginning on or after January 1, 2009; HB 2436, s. 28.9.(a), S.L. 08-107.)*

## Tax Credits for Qualified Business Investments

**G.S. 105-163.011(b),(b1),(c), and 105-163.012(a) – Clarifying Changes:** These subdivisions were rewritten to clarify that the maximum tax credit for investments made in a single tax year cannot exceed \$50,000 and that any amount of credit exceeding the \$50,000 limit is not considered “unused” credit for purposes of carryover provisions of the credit.

*(Effective for tax years beginning on or after January 1, 2009; SB 509, ss. 9(a) and (b), S.L. 09-445.)*

## Withholding Tax

**G.S. 105-163.1 – Article 4A Withholding Definitions:** This section sets out new or revised definitions to conform to the new withholding requirement on contractors identified by an Individual Taxpayer Identification Number (ITIN).

The definition of “Compensation” was revised to include subdivision 1(b) stating that compensation includes the “consideration a payer pays to an ITIN holder who is a contractor and not an employee for services performed in this State.”

The definition of “Payer” was revised to include subdivision (10b) stating that a payer is a person who, in the course of a trade or business, pays compensation to an “ITIN holder who is a contractor and not an employee for services performed in this State.”

The definition for “contractor” in subdivision 2 was repealed.

The following definitions were added:

(6a) ITIN contractor - An ITIN holder who performs services in this State for compensation other than wages.

(6b) ITIN holder – A person whose taxpayer identification number is an Individual Taxpayer Identification Number (ITIN).

(7a) Nonresident contractor – Either of the following:

- a. A nonresident individual who performs in this State for compensation other than wages any personal services in connection with a performance, an entertainment, an athletic event, a speech, or the creation of a film, radio, or television program.
- b. A nonresident entity that provides for the performance in this State for compensation any personal services in connection with a performance, an entertainment, an athletic event, a speech, or the creation of a film, radio, or television program.

The definition of “Payer” was revised to include subdivision (10b) stating that a payer is a person who, in the course of a trade or business, pays compensation to “an ITIN holder who is a contractor and not an employee for services performed in this State.”

*(Effective January 1, 2010; SB 1006, s. 1; S.L. 09-476.)*

**G.S. 105-163.3 – Requirement to Withhold on Contractors Identified by an Individual Taxpayer Identification Number (ITIN):** This section was amended to include a requirement to withhold income tax on contractors identified by an ITIN if the contractor performs services in North Carolina for compensation other than wages. An ITIN is issued by the IRS to a person who is required to have a taxpayer identification number but does not have and is not eligible to obtain a social security number.

A payer who pays compensation other than wages of more than \$1,500 to an ITIN holder is required to withhold 4% of the compensation paid. The payer is required to file a withholding return and pay the amount withheld on a quarterly, monthly, or semiweekly basis pursuant to the requirements in G.S. 105-163.6.

*(Effective January 1, 2010; SB 1006, ss. 2 and 3; S.L. 09-476.)*

## **Job Development Investment Grant Program**

**G.S. 143B, Article 10, Part 2G** – The Job Development Investment Grant Program is an economic development tool for new and expanding businesses in North Carolina whereby eligible companies selected by an Economic Investment Committee of State officials are provided a grant equal to a certain percentage of the company's income tax withholding payments. The statute was amended to extend the authority of the Economic Investment Committee to award new grants with eligible companies until January 1, 2016 (was January 1, 2010).

Technical changes were also made to clarify that the maximum liability for all grants awarded in any single year is capped at \$15 million and allows the Committee to reduce the amount or term of a grant by formally approving a motion, instead of executing an amendment to the grant agreement for businesses who fail to meet or comply with a grant requirement. A grant shall not exceed twelve years starting the first year a grant payment is made.

*(Effective July 31, 2009; HB 1516; ss. 1 through 6, S.L. 09-394.)*

## **Lottery Act**

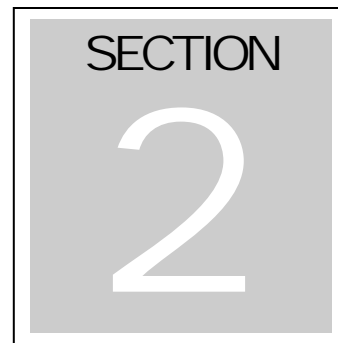
**G.S. 18C-134(b) – Notification:** This subsection was amended to provide that a claimant agency seeking collection of a debt is automatically enrolled in the Lottery Commission's debt set-off program if it is enrolled in the Department of Revenue set-off program. In addition, the Department of Revenue will provide to the Commission on a periodic basis all updates to its debt set-off program.

*(Effective July 27, 2009; HB 205, s. 9, S.L. 09-357.)*

**G.S. 18C-134(e) – Confidentiality:** This subdivision was amended to make it lawful for the Department of Revenue to exchange information with the Lottery Commission and a debtor with respect to debt set-off requirements.

*(Effective July 27, 2009; HB 205, s. 10, S.L. 09-357.)*

## CORPORATE, EXCISE AND INSURANCE TAXES



### PRIVILEGE TAXES

**G.S. 105-40(7A) – Clarifying Change:** This subsection was rewritten to clarify that, for purposes of exemption from the gross receipts tax on entertainment, a “qualifying arts organization” is any one whose primary purpose is to produce, present, or support music, dance, theatre, literature, or visual arts and is exempt from income tax under G.S. 105-130.11(a)(3).

*(Effective August 28, 2009; HB 274, s. 5.1, S.L. 09-550.)*

**G.S. 105-41(a)(12) – Clarifying Change:** This subdivision was rewritten to provide that the privilege license tax on home inspectors applies to an individual licensed under the Home Inspector Licensure Act to clarify that associate home inspectors are also subject to the tax. S.L. 2008-206 imposed an annual State privilege license tax of \$50 on a licensed home inspector but it failed to mention associate home inspectors. Without this change, an associate home inspector would be subject to local privilege license tax in each city that levies the tax.

*(Effective August 7, 2009; SB 509, s.1, S.L. 09-445.)*

**G.S. 14-344.1 – Internet Ticket Resellers, Sunset repealed:** The 2008 General Assembly enacted S.L. 2008-206 to legislate the activity of reselling tickets to admissions over the Internet at more than the face value of the ticket. The amusement gross receipts tax is not imposed on the resale of tickets. The Internet seller of the tickets is required to file a monthly report with the Department of Revenue. The legislation was set to expire June 30, 2009. This legislation removed the sunset.

*(Effective July 6, 2009; HB 309, s. 1, S.L. 09-255 .)*



## TOBACCO PRODUCTS TAX

**Chapter 58, Article 92 – Fire Safe Cigarettes:** This new article adopts a cigarette fire safety standard already implemented in New York and other states as a safety measure to reduce the likelihood that cigarettes will cause fires and result in deaths, injuries, and property damage. The manufacturer must test cigarettes and file a certification with the Department of Insurance that the cigarettes meet the safety standards. Each package must be marked to indicate compliance with the safety act. Inventory on hand is exempt from the marking requirement. However, the retailer or wholesaler must have documentation to confirm that the cigarettes were purchased prior to the effective date and that the quantity purchased was comparable to the cigarettes purchased during the same period of the prior year. The act requires distributors, agents, and retail dealers to submit to inspection of the products by the Commissioner of Insurance, the Secretary of Revenue, or the Attorney General, and their employees. The act allows for seizure of cigarettes in violation of this act by any law enforcement personnel or duly authorized representative of the Commissioner of Insurance. Seized contraband is to be turned over to the Department of Revenue for destruction after the manufacturer is given the opportunity to inspect the cigarettes.

*(Effective January 1, 2010; HB 1785, s. 1, S.L. 07-451.)*

**G.S. 58-92-15(p) – Fire Safe Cigarettes Standards Clarification:** This subsection was amended to clarify that the standards the Commissioner is to use to implement Article 58 are in accordance with the “New York Fire Safety Standards for Cigarettes” as it read on August 24, 2007.

*(Effective January 1, 2010; SB 884, s. 1, S.L. 09-490.)*

**G.S. 105-113.4(3) – Definition of Distributor:** This subsection was amended to remove from the definition of distributor “one who causes cigarettes to be manufactured or produced.”

*(Effective September 1, 2009; SB 777, s. 1, S.L. 09-559.)*

**G.S. 105-113.4(6) – Definition of Manufacturer:** This subsection was amended to expand the definition of manufacturer to include a person who manufactures or contracts with another person to produce tobacco products and is the exclusive purchaser of the products manufactured pursuant to that contract.

*(Effective September 1, 2009; SB 777, s. 1, S.L. 09-559.)*

**G.S. 105-113.4(14) – Technical Change:** This subsection was rewritten to place the requirements for meeting the definition of a wholesale dealer into two separate subdivisions within the subsection.

*(Effective September 1, 2009; SB 777, s. 1, S.L. 09-559.)*

**G.S. 105-113.4D – Floor Tax Extended to Other Tobacco Products:** This new section recodifies provisions formerly in G.S. 105-113.7 that required a distributor holding an inventory of cigarettes on the date of a rate increase to remit to the Secretary within 20 days after the effective date of the increase an additional tax on that inventory based on the difference between the former rate and the increased tax rate. As rewritten, the provision applies to other tobacco products as well as cigarettes.

*(Effective September 1, 2009; SB 202. s. 27A.5.(b), S.L. 09-451.)*

**G.S. 105-113.5 – Tax on Cigarettes:** This section was rewritten to increase the tax on cigarettes from 1.75 cent to 2.25 cents per individual cigarette or 45 cents per pack of twenty.

*(Effective September 1, 2009; SB 202. s. 27A.5.(a), S.L. 09-451.)*

**G.S. 105-113.35 – Tax on Other Tobacco Products:** Subsection (a) was rewritten to increase the tax on other tobacco products from 10% to 12.8% of the cost price of the products. Subsection (e) was recodified as G.S. 105-113.40A.

*(Effective September 1, 2009; SB 202. s. 27A.5.(c), S.L. 09-451.)*

**G.S. 105-113.35(d1) – Sales Between Integrated Wholesale Dealers Prohibited:** This new subdivision prohibits an integrated wholesale dealer from selling, borrowing, loaning, or exchanging non-tax-paid other tobacco products to, from, or with other integrated wholesales dealers.

*(Effective September 1, 2009; SB 777, s. 2, S.L. 09-559.)*

**G.S. 105-113.37(d) – Shipping Report:** This new subdivision requires any person who transports other tobacco products on the public highways, roads, or streets of this State to file a report, upon notice of the Secretary, in a form prescribed by and containing the information required by the Secretary.

*(Effective September 1, 2009; SB 777, s. 3, S.L. 09-559.)*

**G.S. 105-113.40A – Use of Tax Proceeds:** This new section recodifies provisions formerly in G.S. 105-113.35(e). However, the new statute contains an error. As written, net proceeds of the tax collected under this Article would be allocated between the General Fund and the University Cancer Research Fund, resulting in part of the tax on other tobacco products (“OTP”) and all of the tax collected on cigarettes being credited to the University Cancer Research Fund. However, the legislature intended the statute to read “collected under this Part.” The intent of the section is to credit 3% of the cost price of other tobacco products to the General Fund and the remainder of the net tax on other tobacco products to the University Cancer Research Fund. The Department will

administer the statute as the legislature intended and seek a technical correction during the next legislative session.

*(Effective September 1, 2009; SB 202. s. 27A.5.(d), S.L. 09-451.)*

## **ALCOHOLIC BEVERAGE LICENSE AND EXCISE TAXES**

**G.S. 105-113.80(a) – Beer Excise Tax Increase:** This subsection was rewritten to increase the excise tax on malt beverages from 53.177 cents per gallon to 61.71 cents per gallon.

*(Effective for malt beverages first sold or otherwise disposed of on or after September 1, 2009; SB 202. s. 27A.4.(a), S.L. 09-451.)*

**G.S. 105-113.80(b) – Wine Excise Tax Increase:** This subsection was rewritten to increase the excise tax on unfortified wine from 21 cents per liter to 26.34 cents per liter and to increase the excise tax on fortified wine from 24 cents per liter to 29.34 cents per liter.

*(Effective for wine first sold or otherwise disposed of on or after September 1, 2009; SB 202. s. 27A.4.(a), S.L. 09-451.)*

**G.S. 105-113.80(c) – Liquor Excise Tax Increase:** This subsection was rewritten to increase the excise tax on liquor sold in ABC stores from 25 percent to 30 percent of the price of liquor.

*(Effective September 1, 2009; SB 202, s. 27A.4.(a), S.L. 09-451.)*

**G.S. 105-113.81A – Distribution to NC Wine & Grape Growers Council Repealed:** This section requiring the Department to transfer a designated amount of the excise tax on unfortified wine to the NC Wine & Grape Growers Council is repealed.

*(Effective July 1, 2009; SB 202, s. 14.19(f), S.L. 09-451.)*

**G.S. 105-113.82(a) – Distribution of Alcoholic Beverage Taxes:** Subdivision (1) of this subsection was rewritten to reduce the amount of excise tax on malt beverages distributed to local governments from 23.75% to 20.47%. Subdivision (2) was rewritten to reduce the amount of excise tax on unfortified wine distributed to local governments from 62% to 49.44%. Subdivision (3) was rewritten to reduce the amount of excise tax on fortified wine distributed to local governments from 22% to 18%.

*(Effective September 1, 2009; SB 202. s. 27A.4.(b), S.L. 09-451.)*

**G.S. 105-113.82 – Temporary Additional Reduction in Distribution of Alcoholic Beverage Taxes:** Notwithstanding the percentages of the excise taxes distributable to

local governments set out in G.S. 105-113.82, for the excise taxes collected on alcoholic beverages during the 12-month period ending March 31, 2010, the percentages to be distributed to local governments are as follows:

Malt beverages – 7.24%

Unfortified wine – 18%

Fortified wine – 6.49%

*(Effective September 1, 2009; SB 202. s. 27A.4.(c), S.L. 09-451.)*

## FRANCHISE TAX

**G.S.105-122(b1) – Technical Change:** This section was rewritten to move the definitions from subsection (b) to a newly created subsection (b1). The current subsection (b) contains two different subdivision lists within the same subsection. This change puts the defined terms, listed by subdivisions, into a new subsection.

*(Effective August 7, 2009; SB 509, s.2, S.L. 09-445.)*

**G.S.105-122(b)(1a)– Billings in Excess of Costs:** This subdivision was added to specifically exempt billings in excess of costs from surplus and undivided profits, thus excluding the amount from the computation of the franchise tax capital stock base.

*(Effective for taxable years beginning on or after January 1, 2010; SB 367, s.1, S.L. 09-422. Note: Franchise tax levied under G.S.105-122 is for the income year of the corporation in which it becomes due.)*

## BUSINESS AND ENERGY TAX CREDITS

**G.S. 105-129.15(7)e. and G.S. 105-129.15(7)f. – Renewable Energy Property Definition Expanded:** These two subdivisions were added to expand the definition of renewable energy property to include geothermal heat pumps that use the ground or ground water as a thermal energy source to heat or cool a structure and geothermal equipment that uses internal heat from the earth as a substitute for traditional energy for heating water or active space heating and cooling.

*(Effective for taxable years beginning on or after January 1, 2009; HB 512, s. 1, S.L. 09-548 .)*

**G.S. 105-129.16A(c)(2)d. – Renewable Energy Property Credit Ceiling:** This subdivision was added to establish a ceiling of \$8,400 per installation of a geothermal heat pump or geothermal equipment in residential property.

*(Effective for taxable years beginning on or after January 1, 2009; HB 512, s. 2, S.L. 09-548 .)*

**G.S. 105-129.16A(e) – Sunset for Renewable Energy Property:** This subsection was amended to extend the sunset. The credit will expire for renewable energy property placed in service on or after January 1, 2016.

*(Effective for taxable years beginning on or after January 1, 2009; HB 512, s. 2, S.L. 09-548 .)*

**G.S. 105-129.17(a) – Tax Election:** This section was rewritten to allow the credit for renewable energy property to be claimed against the franchise tax levied in Article 3, the income taxes levied in Article 4, or the gross premiums tax levied in Article 8B. All other credits allowed under Article 3B are limited to the franchise tax levied under Article 3 or the income taxes levied under Article 4.

*(Effective for taxable years beginning on or after January 1, 2009; HB 512, s. 3, S.L. 09-548 .)*

## TAX CREDITS FOR GROWING BUSINESSES

**G.S. 105-129.27(f) – No Double Credit:** This subsection was rewritten to clarify that a recycling facility that qualifies for a credit under Article 3C is prohibited from claiming any tax credits under Articles 3A or 3J. Reference to Article 3J was missing from the original statute.

*(Effective for taxable years beginning on or after January 1, 2007; SB 509, s. 3.(a), S.L. 09-445.)*

**G.S. 105-129.83(m) – No Double Benefit:** This subsection was enacted to prohibit a corporation that qualifies for the new special apportionment formula for qualified capital intensive corporations in G.S. 105-130.4(s1) from also claiming any tax credits under Article 3J with respect to the facility that caused the corporation to be a qualified capital intensive corporation.

*(Effective for taxable years beginning on or after January 1, 2010; SB 575, s. 3, S.L. 09-54.)*

## TIER DESIGNATION

**G.S. 143B-437.08(i) – Development Tier Designation:** This section was amended by adding a new subsection to designate all industrial seafood parks created under Article 23C of Chapter 113 as development tier one.

*(Effective August 26, 2009 and expires July 1, 2012; HB 1500, s. 1, S.L. 09-505.)*

## CORPORATION INCOME TAX

**G.S. 105-130.3B – Income Tax Surtax:** This new section imposes a 3% surtax on tax payable by a corporation. The surtax is in addition to the income tax levied under G.S. 105-130.3 and is computed on tax before any available tax credits. No addition to tax may be made pursuant to G.S. 105-163.41 to the extent the underpayment of estimated tax is due to the addition of the surtax.

*(Effective for taxable years beginning on or after January 1, 2009 and expires for taxable years beginning on or after January 1, 2011; SB 202, s. 27A.a.1(a), S.L. 09-451.)*

**G.S. 105-130.4(h) – Conforming Change:** This subdivision was rewritten to replace the term “nonbusiness” with the term “nonapportionable” when referring to a “nonbusiness activity.” This conforms to the changes made by the 2002 General Assembly.

*(Effective August 7, 2009; SB 509, s. 4, S.L. 09-445.)*

**G.S. 105-130.4(i) – Conforming Change:** This subsection was rewritten to conform with the new special apportionment provision for qualified capital intensive corporations in G.S. 105-130.4(s1).

*(Effective for taxable years beginning on or after January 1, 2010; SB 575, s. 2, S.L. 09-54.)*

**G.S. 105-130.4(s1) – Special Apportionment Formula for a Qualified Capital Intensive Corporation:** This subsection was enacted to encourage the location and expansion of capital intensive companies in North Carolina by providing for apportionment of corporate income based solely on the sales factor for companies that meet certain investment and quality jobs criteria. A qualified capital intensive corporation is a corporation that meets all six of the following conditions:

the corporation’s property factor exceeds 75% of the sum of its property, payroll, and sales factors, with the sales factor added twice, for the current year or the corporation’s average property factor for the preceding three years exceeds 75% of the average sum of the factors for those years;

the Secretary of Commerce makes a written determination that the corporation has invested or is expected to invest at least one billion dollars in private funds to construct a facility in this State within nine years after the time the construction begins. The costs of acquiring and improving land for the facility, costs for renovations or repairs for existing buildings, and costs of equipping or reequipping the facility are all included as costs of construction;

the corporation maintains the average number of employees it has at the facility during the first two years after the facility is placed in service for the remainder of the time in which the corporation must complete the investment;

the facility is located in a county that was designated as a development tier one or two area at the time construction began;  
the corporation satisfies the wage standard prescribed under G.S. 105-129.83(c) at the facility;  
the corporation provides health insurance as prescribed in G.S. 105-129.83(d) for all its full-time employees at the facility.

If the corporation fails to invest one billion dollars in private funds within nine years, the benefit of the special apportionment formula expires and the corporation must apportion income as otherwise required under G.S. 105-130.4.

*(Effective for taxable years beginning on or after January 1, 2010; SB 575, s. 1, S.L. 09-54. If no corporation has qualified as a qualified capital intensive corporation prior to January 1, 2019, then G.S. 105-130.4(s1) is repealed effective for taxable years beginning on after January 1, 2019; SB 575, s. 6, S.L. 09-54.)*

**G.S. 105-130.4(t1) – Technical Change:** *This section was rewritten to reinstate language that was omitted from the statute when the tax appeal process was reformed by S.L. 2007-491 (SB 242). The reinstated language prohibits a corporation from using an alternative apportionment method unless granted permission to do so in writing from the Secretary. Any return filed using an apportionment method other than the statutorily prescribed method that is not authorized by the Secretary is not a lawful return.*

*(Effective August 7, 2009; SB 509, s.5, S.L. 09-445.)*

**G.S. 105-130.5(a)(15a) – Bonus Depreciation Add-Back:** *The 2008 General Assembly added this subdivision to require a taxpayer to add to federal taxable income a percentage of the 50% first-year bonus depreciation deduction allowed for federal income tax purposes under §168(k) of the Internal Revenue Code under the Economic Stimulus Act of 2008. The applicable percentage is 85% of the bonus depreciation for the tax year 2008. Any taxpayer who claimed the bonus depreciation for federal purposes for the tax year 2007 and whose North Carolina return also reflected that deduction must also add back 85% of the deduction claimed for the tax year 2007 on the 2008 tax return.*

*The subdivision was amended during the 2009 Session of the General Assembly to extend the provision to include property placed in service before January 1, 2010. Additionally, a taxpayer must add to federal taxable income 85% of the 50% additional depreciation permitted pursuant to IRC §168(n) under the Emergency Economic Stabilization Act of 2008. The provision also applies to property placed in service after December 31, 2007, but before January 1, 2010. Any taxpayer who claimed a §168(n) deduction for federal purposes on a 2008 return and whose North Carolina return also reflected that deduction must add back 85% of the deduction claimed for the tax year 2008 on the 2009 return.*

The adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.

(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(c), S.L. 09-451.)

**G.S. 105-130.5(a)(21) – Deferred Cancellation of Indebtedness Add-Back:** This new subdivision requires a taxpayer to add to federal taxable income the amount of income deferred under IRC §108(i)(1) pursuant to the American Recovery and Reinvestment Act of 2009. The federal act permits the taxpayer to recognize cancellation of indebtedness income over a five year period beginning in 2014. By decoupling from the federal provision, the State requires the taxpayer to recognize the indebtedness income in the current year, and provides for the deduction from federal taxable income of the deferred amount beginning in 2014 (see G.S. 105-130.5(b)(25)).

(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(c), S.L. 09-451.)

**G.S. 105-130.5(a)(22) – Original Issue Discount on Applicable High Yield Discount Obligation:** This new subdivision requires a taxpayer to add to federal taxable income the amount deducted pursuant to IRC §163(c)(5)(F). As part of The American Recovery and Reinvestment Act of 2009, rules limiting corporate deductions of original issue discount on high-yield discount obligations were suspended, creating deductions for the issuer. The General Assembly chose to decouple from this federal provision.

(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(c), S.L. 09-451.)

**G.S. 105-130.5(b)(21a) - Future Deduction for 50% First-Year Accelerated Depreciation Add-Back:** This subdivision was amended to provide a deduction from future income tax returns for the 50% additional first-year depreciation deduction required to be added to federal taxable income under G.S. 105-130.5(a)(15a). A taxpayer may deduct 20% of the total amount of accelerated depreciation added to federal taxable income in the tax year 2008 in each of the first five taxable years beginning on or after January 1, 2009. For a taxpayer who made the addition for accelerated depreciation in 2009, the deduction applies to the first five taxable years beginning on or after January 1, 2010.

(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(d), S.L. 09-451.)

**G.S. 105-130.5(b)(25) – Deduction for Deferred Cancellation of Indebtedness:** This new subdivision provides a deduction from federal taxable income for deferred cancellation of indebtedness income subsequently included in federal taxable income under IRC §108(i)(1) pursuant to the American Recovery and Reinvestment Act of 2009. The deduction applies to taxable years beginning on or after January 1, 2014.



*(Effective for taxable years beginning on or after January 1, 2009; SB 202, s. 27A.6.(d), S.L. 09-451.)*

**G.S. 105-130.16(a) – Conforming and Technical Changes:** This section was amended by the 2008 General Assembly to conform the corporate officers authorized to sign a corporate income tax return with those authorized by statute to sign a franchise tax return. Under prior law, the president, vice-president, treasurer, assistant treasurer, secretary, or assistant secretary was authorized to sign the return. As amended, the assistant treasurer, secretary, or assistant secretary are deleted and replaced by the chief financial officer. The 2009 General Assembly corrected an error in the effective date of the 2008 legislation.

*(Effective for taxable years beginning on or after January 1, 2009; SB 1704, s. 4.(a), S.L. 08-134. Correction: Effective for taxable years beginning on or after January 1, 2008; SB 509, s. 6, S.L. 2009-445.)*

**G.S. 105-130.18 – Failure to File Returns:** This statute is repealed because it is an unnecessary statute in the corporate income tax laws. The Department of Revenue does not ask taxpayers to file a 'supplemental' return. A taxpayer files either an original return or an amended return. If the Department determines additional tax is due, it proposes an assessment.

*(Effective August 7, 2009; SB 509, s.7, S.L. 09-445.)*

**G.S. 105-130.34(a) – Clarifying Change:** This section was amended to clarify that the cap for donations of real property for conservation purposes is limited to \$500,000 regardless of the number of qualifying donations made during the taxable year.

*(Effective August 7, 2009; SB 509, s.9.(c), S.L. 09-445.)*

**G.S. 105-130.47(b1) – Alternative Credit for Qualifying Expenses of a Production Company:** This new subsection was added to provide an election in computing the amount of credit for qualifying expenses. In lieu of the existing 15% credit, the taxpayer may choose to compute the credit at 25%. However, it must forfeit the benefit of the special sales tax rate imposed on mill machinery under G.S. 105-187.51 by subtracting from the amount of credit computed at 25% the difference between the amount of tax paid on purchases subject to the mill machinery rate of 1% and the amount of sales or use tax that would have been due had the purchases been subject to the combined sales tax rate. The credit is based on all expenses incurred for the production, not just those incurred during the taxable year. The election is binding.

*(Effective for taxable years beginning on or after January 1, 2010; SB 943, s. 1, S.L. 09-529.)*

**G.S. 105-130.47(h) – Technical Change:** This subsection was rewritten to replace the term “claimed” with the term “taken” with regard to the report the Department is required to publish by May 1 of each year concerning the production company credit.

(Effective August 7, 2009; SB 509, s.8.(a), S.L. 09-445.)

## INSURANCE GROSS PREMIUMS TAX

**G.S. 58-6-25 – Insurance Regulatory Charge:** The percentage rate to be used in calculating the insurance regulatory charge under this statute is 5.5% for the 2009 calendar year and 6% for the 2010 calendar year. This charge is a percentage of gross premiums tax liability.

(Effective August 7, 2009; SB 202, ss. 21.1.(a) - 21.1.(b), S.L. 09-451.)

**G.S. 105-228.5B – Transfer of Proceeds to High Risk Pool:** This section was rewritten to extend the date by which the Treasurer must transfer a designated amount of gross premiums tax to the North Carolina Health Insurance Risk Pool Fund to November 1 of each year. The change was necessary to insure that sufficient funds had been collected in order to make the transfer.

(Effective August 7, 2009; SB 509, s.10, S.L. 09-445.)

## GENERAL ADMINISTRATION

**G.S. 105-228.90(b)(b1) – Reference to the Internal Revenue Code Updated:** This subdivision was amended in two steps. The first amendment updated the reference to the Internal Revenue Code from May 1, 2008 to May 1, 2009, but not including the amendments made to section 63(c) of the Code by section 3012 of P.L. 110-289. Any amendments to the Internal Revenue Code enacted after May 1, 2008 that increase North Carolina taxable income for the 2008 taxable year become effective for taxable years beginning on or after January 1, 2009. This amendment conforms North Carolina tax law to the provisions of the federal Farm/Military Tax Relief Acts of 2008, P.L. 110-234, enacted on May 22, 2008; the Housing Assistance Tax Act of 2008, P.L. 110-289, enacted on July 30, 2008; the Emergency Economic Stabilization Act of 2008, P.L. 110-343, enacted on October 3, 2008; and the American Recovery & Reinvestment Act of 2009, P.L. 111-5, enacted on February 17, 2009, with the exception of the federal provision that allows a taxpayer who claims the standard deduction an additional deduction from gross income for state and local real property taxes. The first amendment is effective for taxable years beginning on or after January 1, 2008.

**Note:** This implies that, with the exception of the real property tax deduction for standard deduction filers, North Carolina has conformed to all of the tax provisions of

the four federal Acts. However, separate provisions in G.S. 105-134.6(c) and G.S. 105-130.5(a) result in the State effectively not conforming to the federal deduction for motor vehicle sales taxes; deferred income excluded under Code section 108(i)(1); and expenses resulting from applicable high yield debt obligations. In addition, North Carolina partially decouples from the extension of the IRC §168(k) additional bonus depreciation and the adoption of the IRC §168(n) additional bonus depreciation deduction for disaster related property. A taxpayer is required to make an addition to federal taxable income equal to 85% of the deduction claimed on the federal return but subsequently deducts the amount added back ratably over a five-year period.

The second amendment did not change the date reference, but did delete the language regarding the exception for the real property tax deduction. This implies that North Carolina has conformed to the federal provision that allows a taxpayer an additional standard deduction for real property taxes paid. However, a second provision in G.S. 105-134.6(c) results in the State effectively not conforming to the federal additional standard deduction for real property taxes. The second amendment is effective for taxable years beginning on or after January 1, 2009.

**Note:** The two-step change regarding the real property tax deduction was necessary to permit the State to not follow the real property tax deduction provision without retroactively increasing a taxpayer's income tax liability. The real property tax deduction was effective for taxable year 2008. If the General Assembly had adopted the federal changes and then required an addition to federal taxable income for 2008, the taxpayer's tax liability would have been retroactively increased because the law change was not enacted until 2009.

(First amendment effective for taxable years beginning on or after January 1, 2008; SB 202, s 27A.6.(a); S.L. 09-451; second amendment effective for taxable years beginning on or after January 1, 2009; SB 202, s 27A.6.(b), S.L. 09-451.)

**G.S. 105-259(b) – Disclosure of Selection Standards:** *This subsection was rewritten to clarify that standards used for the selection of returns for examination and data used for determining the standards may not be disclosed for any purpose.*

*(Effective August 7, 2009; SB 509, s.39, S.L. 09-445.)*

**G.S. 105-259(b)(20) – Disclosure to the Environmental Management Commission:** This subdivision was amended to clarify that the subdivision is repealed when Part 6 of Article 21A of Chapter 143 of the General Statutes expires.

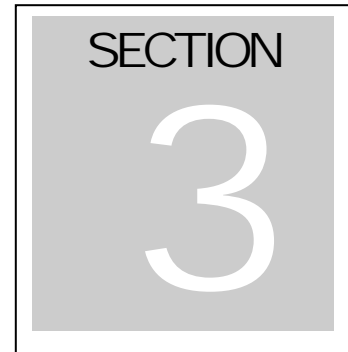
*(Effective August 26, 2009; SB 700, s. 10, S.L. 09-483.)*

**G.S. 105-259(b)(39) – Disclosure to State Treasurer:** *This new subdivision permits the Department to provide to the State Treasurer information it requests about whether a unit of local government has timely filed a withholding report, has been charged a*

*penalty, or has paid a penalty for purposes of determining compliance with the Local Government Finance Act.*

(Effective July 10, 2009; SB 691, s. 1, S.L. 09-283.)

## SALES AND USE TAX DIVISION



### SALES AND USE TAX

**G.S. 105-164.3 – Definitions:** The 2009 General Assembly added and revised multiple definitions. The changes and their effective dates are as follows:

**Bundled transaction – (1b).** This definition is recodified as (1i).

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Business – (1d).** This definition is recodified as (1k) and is amended to modernize the language. There is no substantive change.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Audio work – (1e).** The term is defined as “a series of musical, spoken, or other sounds, including a ringtone.” This definition is added as a result of the imposition of tax on certain digital property.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Audiovisual work – (1g).** The term is defined as “a series of related images and any sounds accompanying the images that impart an impression of motion when shown in succession.” This definition is added as a result of the imposition of tax on certain digital property.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Cable service – (1f).** This definition is recodified as (1m).

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Consumer – (5).** This definition is amended to modernize language and to add digital property and a service as items a person may store, use, or otherwise consume.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Custom computer software – (5c).** This definition is recodified as (5b).

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Delivered electronically – (5d).** This definition is repealed.

*(Effective January 1, 2010; SB 202, s. 27A.3.(d), S.L. 09-451.)*

**Datacenter – (5c).** This definition is added as a result of the rewritten exemption under G.S. 105-164.13(43a). The term is defined as “a facility that provides infrastructure for hosting or data processing services and that has power and cooling systems that are created and maintained to be concurrently maintainable and to include redundant capacity components and multiple distribution paths serving the computer equipment at the facility. Although the facility must have multiple distribution paths serving the computer equipment, a single distribution path may serve the computer equipment at any one time. The following definitions apply in this subdivision: (a) Concurrently maintainable – Capable of having any capacity component or distribution element serviced or repaired on a planned basis without interrupting or impeding the performance of the computer equipment (b) Multiple distribution paths – A series of distribution paths configured to ensure that failure on one distribution path does not interrupt or impede other distribution paths (c) Redundant capacity components – Components beyond those required to support the computer equipment.”

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Digital code – (7a).** The term is defined as “a code that gives a purchaser of the code a right to receive an item by electronic delivery or electronic access. A digital code may be obtained by an electronic means or by a tangible means. A digital code does not include a gift certificate or a gift card.” This definition is added as a result of the imposition of tax on certain digital property.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Direct mail – (7a).** This definition is recodified as (7c).

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Eligible internet datacenter – (8e).** This definition is amended to correct grammatical issues. There is no substantive change.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Engaged in business – (9).** This definition is amended to clarify that the term applies to services and digital property. In addition, “mail order” is replaced with “remote sale.” The definition also is reorganized for ease of reading.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Gross sales – (12).** This definition is amended to add digital property.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**In this (the) State – (14).** This definition is amended to modernize language. There is no substantive change.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Information service – (14a).** The term is defined as “a service that generates, acquires, stores, processes, or retrieves data and information and delivers it electronically to or allows electronic access by a consumer whose primary purpose for using the service is to obtain the processed data or information.” This definition is added as a result of the imposition of tax on certain digital property.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Load and leave – (17a).** This definition is repealed.

*(Effective January 1, 2010; SB 202, s. 27A.3.(d), S.L. 09-451.)*

**Mail order sale – (18).** This definition is repealed.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Net taxable sales – (24).** This definition is amended to modernize language. There is no substantive change.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Nonresident retail or wholesale merchant – (25).** This definition is amended to clarify that the term also applies to services and digital property.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Person – (26).** This definition is amended to modernize language. There is no substantive change.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Purchase – (32).** This definition is amended to clarify that the term also applies to services and digital property. In addition, language is modernized.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Remote sale – (33c).** The term “Remote sale” is defined as “a sale of tangible personal property or digital property ordered by mail, by telephone, via the Internet, or by another similar method, to a purchaser who is in this State at the time the order is remitted, from a retailer who receives the order in another state and delivers the property or causes it to be delivered to a person in this State. It is presumed that a resident of this State who remits an order was in this State at the time the order was remitted.” This definition is added to replace the definition of “Mail order sale” that is repealed.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Retailer – (35).** This definition is amended to clarify the term also applies to services and digital property. In addition, “mail order” is replaced with “remote sale.” The definition is reorganized grammatically for ease of reading and modernizing of language.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Ringtone – (35c).** The term is defined as “a digitized sound file that is downloaded onto a device and that may be used to alert the user of the device with respect to a communication.” This definition is added as a result of the imposition of tax on certain digital property.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Sale or selling – (36).** This definition is amended to clarify that the term also applies to services and digital property. The definition is reorganized for ease of reading and modernizing of language. “Lease or rental” was added to this definition and a group of sentences relating to the giving away of taxable items is deleted from the definition.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Sales price – (37).** This definition is amended to clarify the term also applies to digital property.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Storage – (44).** This definition is amended to clarify the term also applies to digital property purchased from a retailer. The definition was further rewritten to clarify transactions that are not included in the definition of storage.



*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Storage and use; Exclusion – (45).** This definition is repealed, but incorporated into the G.S. 105-164.3(44) exemption.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Streamlined Agreement – (45a).** The definition is amended to reflect the latest version of the Streamlined Sales and Use Tax Agreement of May 12, 2009.

*(Effective August 7, 2009; SB 509, s. 11, S.L. 09-445.)*

**Telecommunications service – (48).** This definition is amended to replace language in (a.) with “an information service” which is now defined in G.S. 105-164.3(14a) and to replace language in (h.) with “Digital property that is delivered or accessed electronically, including an audio work, an audiovisual work, or any other item subject to tax under G.S. 105-164.4(a)(6b)” with an effective date of January 1, 2010.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Use – (49).** This definition is amended to clarify the term also applies to digital property. In addition, language is added to clarify the definition does not include a purchaser’s use of tangible personal property or digital property in any circumstances that would exclude the storage of property under G.S. 105.164.3(44).

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Wholesale merchant – (51).** This definition is amended to clarify the term also applies to services and digital property. The definition is reorganized for ease of reading and modernizing of language.

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**Wholesale sale – (52).** This definition is amended to clarify the term also applies to services and digital property. The definition adds the following: “The term includes a sale of digital property for reproduction into digital or tangible personal property offered for sale. The term does not include a sale to a user or consumer not for resale or, in the case of digital property, not for reproduction and sale of the reproduced property.”

*(Effective August 7, 2009; SB 202, s. 27A.3.(g), S.L. 09-451.)*

**G.S. 105-164.4(a) – Increase in State Sales Tax Rate:** The State general rate of tax increases from 4.5% to 5.5% for sales made on or after September 1, 2009 and before October 1, 2009. A retailer is not liable for an overcollection or undercollection of sales tax if the retailer has made a good faith effort to comply with the law and collect the

proper amount of tax. This “good faith” clause applies only to the period beginning September 1, 2009, and ending October 1, 2009.

As a result of the one percent (1%) State rate increase, the combined general rate as defined in G.S. 105-164.3(4a) that applies only to sales of telecommunications service, ancillary service, video programming (including cable and direct-to-home satellite service), and spirituous liquor increases from 7% to 8%.

*(Effective August 7, 2009; SB 202, s. 27A.2.(a), S.L. 09-451. Effective July 1, 2009 for the period beginning September 1, 2009 and ending October 1, 2009; HB 836, s. 22, S.L. 09-575. )*

**G.S. 105-164.4(a) – Increase in State Sales Tax Rate:** The State general rate of tax increases from 5.5% to 5.75%. This occurs simultaneously with the repeal of the local sales tax under Article 44 as a result of the State’s assumption of Medicaid responsibilities for the counties.

*(Effective October 1, 2009 for sales occurring on or after that date the State general rate is 4.75%; HB 1473, s. 31.16.4(g), S.L. 07-323. Effective October 1, 2009 for sales occurring on or after that date the State general rate is 5.75%; SB 202, s. 27A.2.(b), S.L. 09-451. Effective July 1, 2011 for sales occurring on or after that date the State general rate is 4.75%; SB 202, s.27A.2.(b), S.L. 09-451. )*

**G.S. 105-164.4(a)(6b) – Tax on Digital Property:** This new subdivision imposes the State general and applicable local rate of tax on digital property that is listed below, is delivered or accessed electronically, is not considered tangible personal property, and would be taxable under Article 5 if sold in a tangible medium. The tax applies regardless of whether the purchaser of the item has the right to use it permanently or to use it without making continued payments. The tax does not apply to a service that is taxed under G.S. 105-164.4(a) or to an information service. The following property is subject to tax under this subdivision: (a) an audio work, (b) an audiovisual work, (c) a book, a magazine, a newsletter, a report, or another publication, (d) a photograph or a greeting card.

*(Effective January 1, 2010; SB 202, s. 27A.3.(e), S.L. 09-451.)*

**G.S. 105-164.4(a)(1j) – Tax on Electricity Sold to Manufacturers and Farmers:** This new subdivision imposes a State sales tax at the rate of 1.8% on sales of electricity to manufacturing industries and manufacturing plants for use in connection with the operation of the industries and plants and to farmers to be used by them for any farming purposes other than preparing food, heating dwellings, and other household purposes. The electricity must be measured by a separate meter or another separate device.

*(Effective October 1, 2007 for sales occurring on or after that date; SB 3, s. 10(c), S.L. 07-397. The rate is reduced from 1.8% to 1.4%; effective July 1, 2008 for sales occurring on or after that date; SB 3, s. 10(d), S.L. 07-397. The rate is further reduced*

*from 1.4% to 0.8%; effective July 1, 2009 for sales occurring on or after that date; SB 3, s. 10(e), S.L. 07-397. The subdivision is repealed and sales of electricity to manufacturers and farmers are exempt from tax; effective July 1, 2010 for sales occurring on or after that date; SB 3, s. 10(f), S.L. 07-397.)*

**G.S. 105-164.4B(d) – Sourcing Principles:** This subsection is rewritten to bring North Carolina in compliance with the Streamlined Agreement as defined in G.S. 105-164.3(45a). Direct mail is sourced to the location where the property is delivered that meets one of the following descriptions: (a) Direct mail purchased pursuant to a direct pay permit. (b) When the purchaser provides the seller with information to show the jurisdictions to which the direct mail is to be delivered. Direct mail that does not meet either of the above descriptions is sourced to the location from which the direct mail was shipped. Florist wire sales are sourced to the business location of the florist that takes the order for the sale. A “florist wire sale” is a sale in which a retail florist takes a customer’s order and transmits the order to another retail florist to be filled and delivered.

*(Effective August 7, 2009; SB 509, s. 12, S.L. 09-445.)*

**G.S. 105-164.6 – Complementary Use Tax:** This subdivision is amended to conform to other law changes under G.S. 105-164.4(a). In subsections (a) and (b), the words “digital property” are added after the words “tangible personal property.” In subsection (f) the words “digital property, or a service” are added after the words “tangible personal property.”

*(Effective August 7, 2009; SB 202, s. 27A.3.(h), S.L. 09-451.)*

**G.S. 105-164.6A(a) – Voluntary Collection Agreements:** This subdivision is amended to conform to other law changes under G.S. 105-164.4(a). The words “digital property, or services” are added after the words “tangible personal property.”

*(Effective August 7, 2009; SB 202, s. 27A.3.(i), S.L. 09-451.)*

**G.S. 105-164.7 – Retailer to Collect Sales Tax from Purchaser as Trustee for State:** This section is rewritten by changing the title of the section and striking all the language in the section. The rewritten language is as follows: “The sales tax imposed by this Article is intended to be passed on to the purchaser of a taxable item and borne by the purchaser instead of by the retailer. A retailer must collect the tax due on an item when the item is sold at retail. The tax is a debt from the purchaser to the retailer until paid and is recoverable at law by the retailer in the same manner as other debts. A retailer is considered to act as a trustee on behalf of the State when it collects tax from the purchaser of a taxable item.”

*(Effective August 7, 2009; SB 202, s. 27A.3.(j), S.L. 09-451.)*

**G.S. 105-164.8 – Retailer’s Obligation to Collect Tax; Remote Sales Subject to**

**Tax:** G.S. 105-164.8(b) provides that a retailer who makes a mail order sale is engaged in business in this State and is subject to the sales and use tax if at least one of the conditions in (b)(1) through (b)(8) are met. G.S. 105-164.8(b)(3) codifies the principle announced by the United States Supreme Court in *Scripto v. Carson* that a state may require tax collection by a remote retailer that had contacts with 10 independent contractors in the state who solicited orders for products on its behalf. G.S. 105-164.8(b)(3) requires a retailer who makes a mail order sale to collect the sales tax if: “The retailer has representatives in this State who solicit business or transact business on behalf of the retailer, whether the mail order sales thus subject to taxation by this State result from or are related in any way to such solicitation or transaction of business.”

The clarifying amendments to G.S. 105-164.8(b) modernize the terminology of the statute by replacing “mail order sales” with “remote sales.” The clarification rewrites G.S. 105-164.8(b)(3) as follows: “The retailer solicits or transacts business in this State by employees, independent contractors, agents, or other representatives, whether the remote sales thus subject to taxation by this State result from or are related in any other way to the solicitation or transaction of business.” The clarification also adds the following bright line presumption: “A retailer is presumed to be soliciting or transacting business by an independent contractor, agent, or other representative if the retailer enters into an agreement with a resident of this State under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet Web site or otherwise, to the retailer. This presumption applies only if the cumulative gross receipts from sales by the retailer to purchasers in this State who are referred to the retailer by all residents with this type of agreement with the retailer is in excess of ten thousand dollars (\$10,000) during the preceding four quarterly periods. This presumption may be rebutted by proof that the resident with whom the retailer has an agreement did not engage in any solicitation in the State on behalf of the seller that would satisfy the nexus requirement of the United States Constitution during the four quarterly periods in question.”

*(Effective August 7, 2009; SB 202, s. 27A.3.(a), S.L. 09-451.)*

**G.S. 105-164.11(e) – Reliance on Written Advice:** This is a new subsection which allows a seller who requests specific written advice from the Secretary of Revenue and who acts in accordance with the written advice to not be held liable to a purchaser for any overcollected sales or use tax that was collected in accordance with the written advice. Subsection (a) of G.S. 105-164.11 governs when a seller may obtain a refund for overcollected tax.

*(Effective August 5, 2009; SB 909, s.1, S.L. 09-413.)*

**G.S. 105-164.13 – Exemptions and Exclusions:** The 2009 General Assembly added and amended exemptions. Also included are exemptions enacted by the 2007 General

Assembly with future effective dates. The changes and their effective dates are as follows:

**G.S. 105-164.13 –Retail sales and use tax.** The introductory language in this section is rewritten to add “digital property” after the words “tangible personal property” when a sale at retail or the use, storage, or consumption in this State is specifically exempt from tax. This rewrite is to conform with other law changes under G.S. 105-164.4(a).

*(Effective August 7, 2009; SB 202, s. 27A.3.(k), S.L. 09-451.)*

**Fuel sold to farmers – (1).** This exemption for sales of specific items to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals was rewritten to remove the reference to “electricity” in the phrase “fuel other than electricity.” The sales tax on electricity will be phased out.

*(Effective July 1, 2010 for sales occurring on or after that date; SB 3, s. 10(g), S.L. 07-397.)*

**Electricity sold to farmers – (1b).** This is a new exemption for electricity sold to a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes.

*(Effective July 1, 2010 for sales occurring on or after that date; SB 3, s. 10(h), S.L. 07-397.)*

**Sales to a telephone company – (5b).** This exemption is amended to modernize language. The word “telephone” was changed to “telecommunications”. There is no change in the application of the exemption.

*(Effective January 1, 2010 for sales occurring on or after that date; SB 202, s. 27A.3.(f), S.L. 09-451.)*

**Sales of magazines – (28).** This exemption is rewritten to delete sales of magazines by magazine vendors making door to door sales.

*(Effective January 1, 2010 for sales occurring on or after that date; SB 202, s. 27A.3.(f), S.L. 09-451.)*

**Sales of computer software – (43a).** This exemption is rewritten to delete computer software delivered electronically or by load and leave. However, computer software meeting any one of the following descriptions will be exempt: (a) It is designed to run on an enterprise server operating system. (b) It is sold to a person who operates a datacenter and is used within the datacenter. (c) It is sold to a person who provides cable service, telecommunications service, or video programming and is used to

provide ancillary service, cable service, Internet access service, telecommunications service, or video programming.

*(Effective January 1, 2010 for sales occurring on or after that date; SB 202, s. 27A.3.(f), S.L. 09-451.)*

**Sales of computer software or digital property that becomes a component part – (43b).** This is a new exemption for computer software or digital property that becomes a component part of other computer software or digital property that is offered for sale or of a service that is offered for sale.

*(Effective January 1, 2010 for sales occurring on or after that date; SB 202, s. 27A.3.(f), S.L. 09-451.)*

**Sales of aircraft lubricants, repair parts, and accessories – (45).** This exemption is amended to only include aircraft lubricants, aircraft repair parts, and aircraft accessories sold to an interstate passenger air carrier for use at its hub. Aircraft simulators for flight crew training sold to an interstate passenger air carrier for use at its hub is deleted from this exemption.

*(Effective October 1, 2009 for sales occurring on or after that date; SB1057, s.1, S.L. 09-511.)*

**Sales of aircraft simulators – (45c).** This is a new exemption for aircraft simulators sold to a company for flight crew training and maintenance training.

*(Effective October 1, 2009 for sales occurring on or after that date; SB1057, s.1, S.L. 09-511.)*

**Fuel and electricity sold to manufacturers – (57).** This is a new exemption for fuel and electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility.

*(Effective July 1, 2010 for sales occurring on or after that date; SB 3, s. 10(h), S.L. 07-397.)*

**G.S. 105-164.13B(a) – State Sales Tax Exemption for Certain Bakery Items:** This is a new exemption from the State sales and use tax for bakery items sold without eating utensils by an artisan bakery. These items are subject to the 2% local sales and use tax applicable to sales of qualifying food. Subdivision (4), which provides that “prepared food” is subject to the State and applicable local rates of tax, was amended to provide that prepared food other than bakery items sold without eating utensils by an artisan bakery is subject to the State and local rates of tax. For purposes of the exemption, the term “bakery item” includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. An “artisan bakery” is defined as “...a bakery that meets all of the following requirements:

(a) It derives over eighty percent (80%) of its gross receipts from bakery items. (b) Its annual gross receipts, combined with the gross receipts of all related persons as defined in G.S. 105-163.010, do not exceed one million eight hundred thousand dollars (\$1,800,000).”

*(Effective January 1, 2009 for sales made on or after that date; HB 2436, s. 28.19(a), S.L. 08-107.)*

**G.S. 105-164.14(b) – Nonprofit Entities and Hospital Drugs:** This subdivision is rewritten to create a more succinct reading of the refund provision.

*(Effective August 7, 2009; SB 509, s. 13, S.L. 09-445.)*

**G.S. 105-164.14(b)(1) – Nonprofit Entities and Hospital Drugs:** This subdivision is amended to allow a public hospital described in Article 2 of Chapter 131E to receive a semiannual refund of sales and use tax as described in G.S. 105-164.14(b).

*(Effective August 28, 2009; HB 274, s. 4.1, S.L. 09-550.)*

**G.S. 105-164.14(b)(2a) – Nonprofit Entities and Hospital Drugs:** This new subdivision allows a volunteer fire department and a volunteer emergency medical services squad to receive a semiannual refund of sales and use taxes paid by it under Article 5 on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the above entities if they are exempt from income tax under the Code. Effective July 1, 2008, some of these entities did not qualify for refunds since they were not exempt from income tax under section 501(c)(3) of the Internal Revenue Code. As a result of this new subdivision, these entities now qualify for refunds on purchases made on or after July 1, 2008.

*(Effective July 1, 2008 and applies to purchases made on or after that date; HB 511, s. 1, S.L. 09-233.)*

**G.S. 105-164.14(c)(23) – Certain Governmental Entities:** This new subdivision is added to allow a special district created under Article 43 to apply for an annual refund of sales and use taxes paid by it under Article 5 on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. This special district is a regional public transportation authority created in accordance with Article 43.

*(Effective August 27, 2009; HB 148, s.2.(d), S.L. 09-527.)*

**G.S. 105-164.14(j)(2)n. – Certain Industrial Facilities:** A technical amendment is made to replace the phrase “Solar energy generating materials manufacturing” with “Solar electricity generating materials manufacturing.”

*(Effective July 1, 2008 and applies to purchases made on or after that date; SB 509, s. 14.(a), S.L. 09-445.)*

**G.S. 105-164.15A(a) – Effective Date of Tax Changes on Services and Items Taxed at Combined General Rate:** This subsection is amended to consolidate subdivisions (1) and (2) into a. and b. of subdivision (1). Subdivision (2) is rewritten to add the following: “For a service that is not billed on a monthly or other periodic basis, a tax change applies to amounts received for services provided on or after the effective date, except amounts received for services provided under a lump-sum or unit-price contract entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date.”

*(Effective August 7, 2009; SB 202, s. 27A.3.(l), S.L. 09-451.)*

**G.S. 105-164.16 – Returns and Payment of Taxes:** This is amended to clarify that the subsection also applies to services and digital property.

*(Effective August 7, 2009; SB 202, s. 27A.3.(m), S.L. 09-451.)*

**G.S. 105-164.16(d) – Use Tax on Out of State Purchases:** The subsection that is effective for taxable years beginning on or after January 1, 2010 is repealed. The effect is that use tax due by individuals will continue to be reported on the North Carolina Individual Income Tax Return.

*(Effective August 7, 2009; SB 202, s. 27A.3.(b), S.L. 09-451.)*

**G.S. 105-164.16(e) – Simultaneous State and Local Changes:** This subsection was added to clarify the reporting of sales and use tax on lease or rental payments and installment sale payments when the State and local rates change on the same date but the “combined general rate” does not change. When the State and local sales and use tax rates change on the same date because one increases and the other decreases, but the “combined general rate” as defined in G.S. 105-164.3(4a) does not change, taxes payable on the gross receipts from the following periodic payments are to be reported in accordance with the changed State and local rates: (1) Lease or rental payments billed after the effective date of the changes. (2) Installment sale payments received after the effective date of the changes by a taxpayer who reports the installment sale on a cash basis. This subsection is further amended to delete some language; however, no substantive change.

*(Effective July 28, 2008; SB 1704, s. 11, S.L. 08-134. Effective August 7, 2009; SB 202, s. 27A.3(m), S.L. 09-451.)*

**G.S. 105-164.22 – Record-Keeping Requirements, Inspection Authority, and Effect of Failure to Keep Records:** This section is renamed and rewritten to incorporate the language from G.S. 105-164.22, G.S. 105-164.23, G.S. 105-164.24, G.S. 105-164.25, and G.S. 105-164.31.



*(Effective August 7, 2009; SB 202, s. 27A.3.(n), S.L. 09-451.)*

**G.S. 105-164.23 – Consumer Must Keep Records:** This section is repealed; however, the requirement is incorporated in G.S. 105-164.22.

*(Effective August 7, 2009; SB 202, s. 27A.3.(o), S.L. 09-451.)*

**G.S. 105-164.24 – Separate Accounting Required:** This section is repealed; however, the requirement is incorporated in G.S. 105-164.22.

*(Effective August 7, 2009; SB 202, s. 27A.3.(o), S.L. 09-451.)*

**G.S. 105-164.25 – Wholesale Merchant Must Keep Records:** This section is repealed; however, the requirement is incorporated in G.S. 105-164.22.

*(Effective August 7, 2009; SB 202, s. 27A.3.(o), S.L. 09-451.)*

**G.S. 105-164.26 – Presumption that Sales are Taxable:** This section is rewritten to reorganize the section and to modernize the language. Two new subsections are added to address digital property and a service.

*(Effective August 7, 2009; SB 202, s. 27A.3.(p), S.L. 09-451.)*

**G.S. 105-164.27A(a) – Direct pay permit:** This subsection is renamed “General.” This is amended to clarify that the subsection applies to services and digital property as well as tangible personal property. The subsection is reorganized by adding (a1) regarding direct mail for ease of reading.

*(Effective August 7, 2009; SB 202, s. 27A.3.(q), S.L. 09-451.)*

**G.S. 105-164.28 – Certificate of Resale:** This section is amended to replace the words “tangible personal property” or “property” with the words “an item” or “item” as appropriate. This change makes this section generic to what is applicable for resale under G.S. 105-164.4(a).

*(Effective August 7, 2009; SB 202, s. 27A.3.(r), S.L. 09-451.)*

**G.S. 105-164.28A(a) – Other exemption certificates:** This section is amended to replace the words “tangible personal property” or “property” with the words “an item” or “item” as appropriate. This change makes this section generic to what is applicable for exemption under G.S. 105-164.13.

*(Effective August 7, 2009; SB 202, s. 27A.3.(s), S.L. 09-451.)*

**G.S. 105-164.29(a) – Application for certificate of registration:** This subsection is rewritten to add “Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration.”

*(Effective August 7, 2009; SB 202, s. 27A.3.(t), S.L. 09-451.)*

**G.S. 105-164.31 – Complete Records Must Be Kept for Three Years:** This section is repealed; however, the requirement is incorporated in G.S. 105-164.22.

*(Effective August 7, 2009; SB 202, s. 27A.3.(o), S.L. 09-451.)*

**G.S. 105-164.32 – Incorrect returns; estimate:** This section is rewritten as follows: “If a retailer, a wholesale merchant, or a consumer fails to file a return and pay the tax due under this Article or files a grossly incorrect, false or fraudulent return, the Secretary must estimate the tax due and assess the retailer, wholesale merchant, or consumer based on the estimate.” The new language is to include all items that are taxable under G.S. 105-164.4(a).

*(Effective August 7, 2009; SB 202, s. 27A.3.(u), S.L. 09-451.)*

**G.S. 105-164.44E – Transfer to the Dry-Cleaning Solvent Cleanup Fund:** This section is amended to provide for a sunset of the transfer to the Dry-Cleaning Solvent Cleanup Fund established under G.S. 143-215.104C an amount equal to fifteen percent (15%) from the net State sales and use tax collected under G.S. 105-164.4(a)(4). This section is repealed effective July 1, 2020.

*(Effective August 26, 2009; SB 700, s. 8, S.L. 09-483.)*

**G.S. 105-164.44F – Distribution of part of telecommunications taxes to cities:** This section is rewritten to reduce the distributable percentage amounts on telecommunications service and ancillary service to cities and counties. This is to hold the State harmless as a result of the temporary one percent (1%) increase of the “combined general rate” for telecommunications service and ancillary service.

*(Effective October 1, 2009 for distributions for months beginning on or after that date; SB 202, s. 27A.2.(c), S.L. 09-451. Effective July 1, 2011, the reduced distributable percentage amounts are repealed; SB 202, s. 27A.2.(c), S.L. 09-451.)*

**G.S. 105-164.44G – Distribution of part of tax on modular homes:** This section is amended to change the formula used to distribute twenty percent (20%) of the taxes under G.S. 105-164.4(a)(8) on modular homes. The new formula utilizes G.S. 105-486 as the basis for distribution instead of G.S. 105-520, which is repealed effective October 1, 2009.

*(Effective October 1, 2009, and applies to distributions made on or after that date; SB 509, s. 15(a), S.L. 09-445.)*

**G.S. 105-164.441 – Distribution of part of sales tax on video programming and telecommunications:** This section is rewritten to reduce the distributable percentage amounts on telecommunications service and video programming service to cities and counties. This is to hold the State harmless as a result of the temporary one percent (1%) increase of the “combined general rate” for telecommunications service and video programming service.

(Effective October 1, 2009 for distributions for months beginning on or after that date; SB 202, s. 27A.2.(c), S.L. 09-451. Effective July 1, 2011, the reduced distributable percentage amounts are repealed; SB 202, s. 27A.2.(c), S.L. 09-451.)

### **Chapter 323 of the 2007 Session Laws – Transfer for Wildlife Resources**

**Commission:** This act provides that, for the 2007-2008 and 2008-2009 fiscal years, the Secretary of Revenue must make a quarterly transfer from the State sales and use tax net collections to the State Treasurer for the Wildlife Resources Fund to fund legislative salary increases for Wildlife Resources Commission employees.

(Effective July 1, 2007; HB 1473, s. 28.15B, S.L. 07-323.)

## **LOCAL SALES AND USE TAX**

**G.S. 105-472(b)(3) – Distribution Between Counties and Cities:** This is a new subsection that adds a new method of splitting the net proceeds of the tax collected in a taxing county. The Combined Method uses both the Per Capita and Ad Valorem Methods with neither method being used to distribute less than forty percent (40%) of the net proceeds of the tax. The county commissioners decide the percentages of each method if the combined method is chosen. Onslow County is the only county allowed to use this new combined method.

(Effective April 29, 2009; HB 63, s. 1 and 2, S.L. 09-18.)

**G.S. 105-487 – Use of Additional Tax Revenue by Counties:** This subsection amends the length of time requiring a county to reserve thirty percent (30%) of revenue received from this Article for the public school capital outlay fund in each county. The sunset provision is deleted, ensuring the public outlay fund will continue to be funded at its current level in perpetuity.

(Effective January 1, 2010 for sales made on or after that date; HB 311, s 1, S.L. 09-395.)

**G.S. 105-501 – Distribution of Second One-Half Percent Local Sales and Use Tax:** This section alters the method of distributing the proceeds of the second one-half percent tax from per capita to point of origin. The amount of the net proceeds allocated to a county is no longer adjusted by the statutory adjustment factors.

*(Effective October 1, 2009 for distributions for months beginning on or after that date; HB 1473, s. 31.16.4(b), S.L. 07-323.)*

**G.S. 105-502 – Use of Additional Tax Revenue by Counties:** This section amends the method of determining the amount required to be reserved for the public school capital outlay fund in each county. As a result of the second one-half percent tax distribution method changing October 1, 2009, some counties will receive less funds under G.S. 105-501. The county must use sixty percent (60%) of the amount of revenue specified in the following: (1) The amount of revenue the county receives under G.S. 105-501(a). (2) If the amount allocated to the county under G.S. 105-486 is greater than the amount allocated to the county under G.S. 105-501(a), the difference between the two amounts. This new method ensures the public school capital outlay fund is held harmless as a result of the Medicaid swap.

*(Effective October 1, 2009 for distributions for months beginning on or after that date; SB 1704, s. 13(a), S.L. 08-134.)*

**G.S. 105-502– (Effective October 1, 2009) Use of Additional Tax Revenue by Counties:** This subsection amends the length of time requiring a county to reserve sixty percent (60%) of revenue received specified calculation from this Article for the public school capital outlay fund in each county. The sunset provision is deleted, ensuring the public outlay fund will continue to be funded at its current level in perpetuity.

*(Effective January 1, 2010 for sales made on or after that date; HB 311, s. 2, S.L. 09-395.)*

**G.S. 105-505 – Local Government Sales and Use Tax for Public Transportation:** This section is amended to add transportation authorities and gives counties an opportunity to obtain an additional source of revenue with which to meet their needs for financing local public transportation systems. Previously, only Mecklenburg County had this opportunity. All such taxes must be approved in a referendum.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-506 – Definitions:** This section is amended to add two definitions and amend another. The term “Board of trustees” is added as (1) and defined as “the governing body of a transportation authority.” The term “Net proceeds” is renumbered from (1) to (2). The term “Public transportation system” is renumbered from (2) to (3) and the definition is amended to add an interconnected bicycle and pedestrian infrastructure that supports public transportation as part of a system. The term “Transportation authority” is added and defined as “For the purposes of Parts 3 and 3A of this Article, a regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes; and for the purposes of Parts 3 and 3B of this Article, a regional

transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.”

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-507 – Limitations:** This section applies to Mecklenburg County only. The word “Article” is replaced with “Part” as a result of Article 43 being separated into multiple parts.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-508 – Local Election on Adoption:** This section applies to Mecklenburg County only. The word “Article” is replaced with “Part” as a result of Article 43 being separated into multiple parts. In addition, a specific local tax reference is replaced with a generic local tax reference.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-509 – Levy and Collection:** This section applies to Mecklenburg County only. The word “Article” is replaced with “Part” as a result of Article 43 being separated into multiple parts. In addition, “this Article” is replaced with “G.S. 105-508” as a technical change.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510 – Distribution and Use of Taxes:** This section applies to Mecklenburg County only. The word “Article” is replaced with “Part” as a result of Article 43 being separated into multiple parts.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.1 – Applicability:** This new section applies to Mecklenburg County only. The word “section” is replaced with “Part” as a result of Article 43 being separated into multiple parts.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.5 – Special Districts:** This new section applies to transportation authorities only. A transportation authority may create a special district as provided in Part 3A and 3B of this Article along with its specific provisions. The transportation authority also has filing requirements with the Secretary of State.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.6 – Limitations:** This new section applies to transportation authorities only. A transportation authority may not levy a tax under Part 3A or 3B of this Article

unless (1) It operates a public transportation system. (2) It has developed a financial plan in conjunction with other requirements listed in this section. (3) The tax is approved by the voters.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.7 – Distribution and Use of Taxes:** This new section applies to transportation authorities only. On a monthly basis the Department will allocate to each special district the net proceeds of the tax levied under this Part within the special tax district. A special district must use the net proceeds distributed to it in accordance with its financial plan adopted pursuant to G.S. 105-510.6 and use the net proceeds only for financing, constructing, operating, and maintaining public transportation systems. The special district shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.8 – Local Election on Adoption of Sales and Use Tax:** This new section applies to the Regional Public Transportation Authority (Triangle) which may consist of Durham, Orange and Wake Counties. This section provides the procedures in which a transportation authority may proceed with a resolution to place the levy question on the ballot. The ballot question is “[ ] For [ ] Against One-half percent (1/2%) local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.” The special district created may consist of one, two, or three of the above counties.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.9 – Levy and Collection of Sales and Use Tax:** This new section applies to the Regional Public Transportation Authority (Triangle) which may consist of Durham, Orange and Wake Counties. If the majority of those voting in a referendum vote for the levy of the tax, then the transportation authority may, by resolution, levy the one-half percent (1/2%) tax. In determining the results of a multicounty district, all counties must receive majority vote in each county. Those counties that pass the referendum will remain in the special district and those counties that do not pass the referendum are removed from the special district.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.10 – Local Election on Adoption of Sales and Use Tax:** This new section applies to the Regional Public Transportation Authority (Triad) which may consist of Forsyth and Guilford Counties. This section provides for the procedures in which a transportation authority may proceed with a resolution to place the levy question on the ballot. The ballot question is “[ ] For [ ] Against One-half percent (1/2%) local sales and use taxes, in addition to the current local sales and use taxes, to

be used only for public transportation systems.” The special district created may consist of one or two of the above counties.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.11 – Levy and Collection of Sales and Use Tax:** This new section applies to the Regional Public Transportation Authority (Triad) which may consist of Forsyth and Guilford Counties. If the majority of those voting in a referendum vote for the levy of the tax, then the transportation authority may, by resolution, levy the one-half percent (1/2%) tax. In determining the results of a multicounty district, all counties must receive majority vote in each county. Those counties that pass the referendum will remain in the special district and those counties that do not pass the referendum are removed from the special district.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.12 – Applicability:** This new section applies only in counties other than Durham, Forsyth, Guilford, Mecklenburg, Orange, or Wake Counties. This is also applicable to sections 105-510.13 through 105-510.16.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.13 – Limitations:** This new section applies only in counties other than Durham, Forsyth, Guilford, Mecklenburg, Orange, or Wake Counties. A county may not levy the tax under this Part unless the county or at least one unit of local government in the county operates a public transportation system. Operation of a public transportation system also includes a contract with a private entity for operation of the public transportation system.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.14 – Local Election on Adoption of Sales and Use Tax:** This new section applies only in counties other than Durham, Forsyth, Guilford, Mecklenburg, Orange, or Wake Counties. The board of commissioners may direct the county board of elections to conduct an advisory referendum subject to specific procedures. The ballot question is “[ ] For [ ] Against One-quarter percent (1/4%) local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.”

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.15 – Levy and Collection of Sales and Use Tax:** This new section applies only in counties other than Durham, Forsyth, Guilford, Mecklenburg, Orange, or Wake Counties. If the majority of those voting in a referendum vote for the levy of the tax, then the board of commissioner of the county may, by resolution, levy the one-quarter percent (1/4%) tax.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-510.16 – Distribution and Use of Taxes:** This new section applies only in counties other than Durham, Forsyth, Guilford, Mecklenburg, Orange, or Wake Counties. On a monthly basis the Department will allocate to each county the net proceeds of the tax levied under this Part, then the Department will distribute the net proceeds of the tax by the county on a per capita basis among the county and units of local government in the county that operate a public transportation system in conjunction with additional rules. A county or municipality must use the net proceeds only for financing, constructing, operating, and maintaining public transportation systems. The county or municipality shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems.

*(Effective August 27, 2009; HB 148, s. 2.(b), S.L. 09-527.)*

**G.S. 105-515 through 105-520 – Third One-Half Percent Local Sales and Use Tax Repealed:** The sections providing for the adoption, levy, administration, and distribution of the third one-half percent tax are repealed.

*(Effective October 1, 2009 for sales occurring on or after that date; HB 1473, s. 31.16.4(a), S.L. 07-323.)*

**G.S. 105-522 – City Hold Harmless for Repealed Local Taxes:** This is a new section providing a municipality that was incorporated on or before October 1, 2008 and receives a sales and use tax distribution under G.S. 105-472 receives a hold harmless amount. The hold harmless amount is 50% of the amount of sales and use tax revenue distributed for a month to the municipality under Article 40 other than revenue from sales of qualifying food subject to only the 2% local tax. A county must hold the municipalities harmless from the repeal of the taxes formerly imposed under Article; the municipality's hold harmless amount is to be added to the municipality's monthly distribution. The revenue for the hold harmless distribution is obtained by reducing each county's monthly allocation under G.S. 105-472(b) or under the corresponding provision in the Mecklenburg first one-cent sales tax act by the hold harmless amounts for the municipalities in that county.

*(Effective October 1, 2008 for distributions for months beginning on or after that date; HB 1473, s. 31.16.3(f), S.L. 07-323. The calculation of the repealed sales tax amount is changed for fiscal year 2008-2009; effective October 1, 2008 for distributions for months beginning on or after that date; HB 1473, s. 31.16.3(g), S.L. 07-323. Repealed (Effective July 28, 2008; SB 1704, s. 15(b), S.L. 08-134.) The calculation of the hold harmless amount is amended; effective October 1, 2009 for distributions for months beginning on or after that date; HB 1473, s. 31.16.4(c), S.L. 07-323. Repealed (Effective July 28, 2008; SB 1704, s. 15(c), S.L. 08-134.) For the 2009-2010 fiscal year, further changes are made in the method of calculating the repealed sales tax amount; effective October*



1, 2009; HB 1473, s. 31.16.4(e), S.L. 07-323. Repealed (Effective July 28, 2008; SB 1704, s. 15(e), S.L. 08-134.) Further revisions are made in the method of calculating the hold harmless amount; effective October 1, 2009 for distributions for months beginning on or after that date; HB 714, s. 14.4(a), S.L. 07-345.) Repealed (Effective July 28, 2008; SB 1704, s. 15(f), S.L. 08-134.)

**G.S. 105-522(a)(2) – City Hold Harmless for Repealed Local Taxes:** This amends the city hold harmless calculation to match the formulas used in the tables that calculate the impact of the “Medicaid swap”. The new calculation is the sum of (a.) the amount allocated under G.S. 105-486 (Article 40) and (b.) amount determined by subtracting twenty-five percent (25%) of G.S. 105-472 (Article 39) or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of G.S. 105-486 (Article 40).

*(Effective October 1, 2009 for distributions for months beginning on or after that date; SB 1704, s. 15(g), S.L. 08-134.)*

**G.S. 105-523 – County Hold Harmless for Repealed Local Taxes:** This is a new section requiring the Secretary to make hold harmless payments to a county if the “repealed sales tax amount” for a fiscal year exceeds the county’s “hold harmless threshold.” These terms are defined in this section. To determine if the county is eligible for a hold harmless payment, the Secretary must estimate a county’s repealed sales tax amount and hold harmless threshold for a fiscal year and must send an eligible county 90% of its estimated hold harmless payment with the monthly distribution made under G.S. 105-472 for March of that year. At the end of each fiscal year, the Secretary is required to determine the difference between a county’s repealed sales tax amount and its hold harmless threshold for that year and send the remainder of the county’s hold harmless payment for the fiscal year ended June 30 by August 15. The intent of this section is that each county benefit by at least \$500,000 annually from the exchange of a portion of the local sales and use taxes for the State’s assumption of responsibility for the non-administrative costs of Medicaid.

*(Effective October 1, 2008 for distributions for months beginning on or after that date; HB 1473, s. 31.16.3(f), S.L. 07-323. The calculation of the repealed sales tax amount is changed for fiscal year 2008-2009; effective October 1, 2008 for distributions for months beginning on or after that date; HB 1473, s. 31.16.3(g), S.L. 07-323. Repealed (Effective July 28, 2008; SB 1704, s. 15(b), S.L. 08-134.) The calculation of the hold harmless amount is amended; effective October 1, 2009 for distributions for months beginning on or after that date; HB 1473, s. 31.16.4(d), S.L. 07-323. Repealed (Effective July 28, 2008; SB 1704, s. 15(d), S.L. 08-134.) For the 2009-2010 fiscal year, further changes are made in the method of calculating the repealed sales tax amount; effective October 1, 2009; HB 1473, s. 31.16.4(e), S.L. 07-323. Repealed (Effective July 28, 2008; SB 1704, s. 15(e), S.L. 08-134.) Further revisions are made in the method of calculating the repealed sales tax amount; effective October 1, 2009 for distributions for months beginning on or after that date; HB 714, s. 14.4(b), S.L. 07-345.) Repealed (Effective July 28, 2008; SB 1704, s. 15(f), S.L. 08-134.)*

**G.S. 105-523(b)(2) – County Hold Harmless for Repealed Local Taxes:** This amends the definition of “Hold Harmless Threshold” to ensure that a county’s Medicaid service costs for the 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 31, 2009 and applies to distributions for months beginning on or after October 1, 2008; HB 102, s. 4.(a), S.L. 09-399.)*

**G.S. 105-523(b)(3) – County Hold Harmless for Repealed Local Taxes:** This amends the county hold harmless calculation to match the formulas used in the tables that calculate the impact of the “Medicaid swap”. The new calculation is the sum of subdivision (a.) the amount allocated under G.S. 105-486 (Article 40) and subdivision (b.) amount determined by subtracting twenty-five percent (25%) of G.S. 105-472 (Article 39) or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of G.S. 105-486 (Article 40).

*(Effective October 1, 2009 for distributions for months beginning on or after that date; SB 1704, s. 15(h), S.L. 08-134.)*

**G.S. 105-538 – Administration of Taxes:** A technical amendment is made to this section to clarify that sales of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a) does not apply to Article 46. Furthermore, language that referred to the 2008 calendar is repealed.

*(Effective August 7, 2009; SB 509, s. 16, S.L. 09-445.)*

**Chapter 323 of the 2007 Session Laws – Reduction of Third One-Half Percent Local Sales and Use Tax:** As a result of the State’s assumption of Medicaid responsibilities for the counties, this act reduces the one-half percent ( $\frac{1}{2}\%$ ) sales and use tax authorized under Article 44 of Chapter 105 of the General Statutes to one-quarter percent ( $\frac{1}{4}\%$ ). No action is required of the county; a resolution enacted by the county to levy the one-half percent tax is considered to be a resolution authorizing the levy of the one-quarter percent tax. The one-quarter percent reduction is offset by a one-quarter percent increase in the State general rate of sales and use tax.

*(Effective October 1, 2008 for sales occurring on or after that date; HB 1473, s. 31.16.3(a), S.L. 07-323. The remaining one-quarter percent ( $\frac{1}{4}\%$ ) local tax under Article 44 is repealed; effective October 1, 2009 for sales occurring on or after that date; HB 1473, s. 31.16.4(a), S.L. 07-323.)*

**Chapter 323 of the 2007 Session Laws – Article 44 Title:** The title of Article 44 is changed from “Third One-Half Cent Local Government Sales and Use Tax” to “Local Government Hold Harmless Provisions” as a result of the repeal of the third one-half percent local tax.

*(Effective October 1, 2009; HB 1473, s. 31.16.4(f), S.L. 07-323.)*

**Chapter 1096 of the Session Laws, as Amended – Mecklenburg First 1% Sales**

**Tax Act:** The division is amended to tie the levy, collection, administration, and repeal of this tax to Article 39 of Chapter 105 of the General Statutes, except as provided differently in this division. This amendment is an effort to allow all future changes to the Article 5 and Article 39 to flow into this division. In the past all changes were required to be duplicated into this division. Language that can be replaced by the “catch all” is repealed. In addition, clarifying language is added to ensure the division of the net proceeds of the tax collected on items other than food between Mecklenburg County and its municipalities are in accordance with the ad valorem distribution method described in G.S. 105-164-472(b)(2).

*(Effective August 7, 2009; SB 509, s. 19, S.L. 09-445)*

## **HIGHWAY USE TAX – ARTICLE 5A**

**G.S. 105-187.3(b1) – Retail Value:** This new subsection is addresses the retail value of Department of Defense Vehicles. The retail value of a vehicle for which a certificate of title is issued because of a transfer by a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad is the sales price paid by the State agency, unit of local government, volunteer fire department, or volunteer rescue squad.

*(Effective August 28, 2009; HB 274, s. 2.(e), S.L. 09-550.)*

**G.S. 105-187.6(a) – Exemptions:** This subsection is rewritten to add an exemption from highway use tax when a unit of local government, volunteer fire department, or volunteer rescue squad transfers title of a motor vehicle to a State agency to enable that State agency to transfer that same vehicle to another unit of local government, volunteer fire department, or volunteer rescue squad.

*(Effective June 11, 2009; HB 201, s. 2, S.L. 09-81.)*

**G.S. 105-187.6(a)7 – Exemptions:** The exemption for a transfer of a motor vehicle to a handicapped person from the Department of Health and Human Services after the vehicle had been equipped by the Department for use by the handicapped is repealed.

*(Effective August 7, 2009; SB 509, s. 16, S.L. 09-445.)*

## SCRAP TIRE DISPOSAL TAX –ARTICLE 5B

**G.S. 105-187.19(b) – Use of Scrap Tire Tax Proceeds:** This subsection is amended to reduce the net proceeds credited to the Scrap Tire Disposal Account from twenty-two percent (22%) to seventeen percent (17%). In addition, two new funds are added to the Scrap Tire Distribution. The Inactive Hazardous Sites Cleanup Fund will be credited two and one-half percent (2.5%) of the net proceeds. The Bernard Allen Memorial Emergency Drinking Water Fund will be credited two and one-half percent (2.5%) of the net proceeds.

*(Effective August 7, 2009; SB 202, s.13.3B.(a), S.L. 09-451.)*

## DRY-CLEANING SOLVENT TAX – ARTICLE 5D

**G.S. 105-187.35 – Sunset of Dry-Cleaning Solvent Tax:** This section is added to establish a sunset for Article 5D. The sunset is extended to January 1, 2020. In S.L. 1997-392, which enacted Article 5D the repeal date of January 1, 2010, had been established.

*(Effective August 26, 2009; SB 700, s. 8, S.L. 09-483.)*

## MANUFACTURING FUEL AND CERTAIN MACHINERY AND EQUIPMENT – ARTICLE 5F

**G.S. 105-187.50 – Definitions:** The term “concurrently maintainable” is repealed. The term “eligible datacenter” is rewritten to only include subdivision “b.” and “c.” The term “multiple distribution paths” is repealed. The term “redundant capacity components” is repealed. Under G.S. 105-164.3(5c) “datacenter” is defined. This definition incorporates all repealed definitions listed above and all items removed from the term “eligible datacenter.”

*(Effective August 7, 2009; SB 202, s. 27A.3.(v), S.L. 09-451)*

**G.S. 105-187.51A – Privilege Tax on Manufacturing Fuel:** This section is rewritten to reflect a reduction in the privilege tax rate imposed on a manufacturing industry or plant that purchases fuel to operate the industry or plant. The rate is reduced from one percent (1%) to seven-tenths percent (0.7%).

*(Effective October 1, 2007 for fuel purchased on or after that date; SB 3, s. 12(a), S.L. 07-397. The rate is reduced from 0.7% to 0.5%; effective July 1, 2008 for fuel purchased on or after that date; SB 3, s. 12(b), S.L. 07-397. The rate is further reduced from 0.5% to 0.3%; effective July 1, 2009 for fuel purchased on or after that date; SB 3,*

s. 12(c), S.L. 07-397. *The section is repealed and purchases of fuel by manufacturers are exempt from tax; effective July 1, 2010; SB 3, s. 12(d), S.L. 07-397.)*

**G.S. 105-187.51C(c) – Forfeiture of Privilege Tax Imposed on Datacenter Machinery and Equipment:** This subdivision is revised to replace some statutory references that were repealed. Currently, in the event of forfeiture, a credit of privilege tax is allowed against the additional sales and use tax due. For clarification, the credit will reduce the amount forfeited, and the interest applies only to the reduced amount.

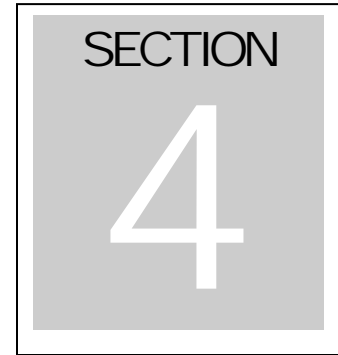
*(Effective August 7, 2009; SB 509, s. 17, S.L. 09-445.)*

## **SOLID WASTE DISPOSAL TAX – ARTICLE 5G**

**G.S. 105-187.63 – Use of Solid Waste Disposal Tax Proceeds:** This section is amended to exclude from the distribution a city or county who is served by a regional solid waste management authority established under Article 22 from the Solid Waste Disposal Tax distribution.

*(Effective August 26, 2009; SB 838, s. 4, S.L. 09-484.)*

# PROPERTY TAX



## Property Tax

### **G.S. 105-273(3a) — Definition of Builder:**

Defines “builder” as a taxpayer licensed as a general contractor under G.S. 87-1 and engaged in the business of buying real property, making improvements to it and then reselling it.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; Repealed effective for taxes imposed for taxable years beginning July 1, 2013; HB 852, s. 1, S.L. 2009-308.)

**G.S. 105-273(6) — Definition of Corporation:** Adds a new section which defines a corporation as an organization having capital stock represented by shares or an incorporated, nonprofit organization.

(Effective August 4, 2009; SB 509, s. 20, S.L. 2009-445.)

### **G.S. 105-275 — Property Classified and Excluded From the Tax Base:**

Makes technical change to the language.

(Effective August 4, 2009; SB 509, s. 21, S.L. 2009-445.)

### **G.S. 105-277.1(d) — Homestead Exclusion:**

Removes the term “as tenants by the entirety” as it relates to husband and wife. Treats all types of husband and wife ownership the same for the exclusion.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2009; SB 509, s. 22 (a), S.L. 2009-445.)

### **G.S. 105-277.1B — Property Tax Homestead Circuit Breaker:**

Clarifies the language as follows:

1. Changes the requirement that the owner must owned and occupied the property as a permanent residence for at least five consecutive years to the requirement that the owner has owned the residence for five consecutive years and has occupied the property for at least five years. Makes other technical changes to the ownership and occupancy requirement.

2. Makes it clear that the taxpayer can only defer the principal amount of the tax for the current year.
3. Clears up the deferred taxes language.
4. Makes it clear that the tax collector only has to send notice of deferred taxes to the mailing address of the residence on which the taxes of been deferred.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2009; SB 509, s. 22(b), S.L. 2009-445.)

**G.S. 105-277.1C — Disabled Veteran Property Tax Homestead Exclusion:**

Clarifies the language as follows:

1. Clarifies the definition of a disabled veteran to include all veterans whose service at separation was honorable or under honorable conditions.
2. Changes the language concerning a surviving spouse to include only those spouses who have not ever remarried.
3. Removes the term “as tenants by the entirety” as it relates to husband and wife. Treats all types of husband and wife ownership the same for the exclusion.
4. Allows a surviving spouse to qualify if the veteran’s death was the result of a service-connected condition even if the veteran did not qualify at the time of death.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2009; SB 509, s. 22(c), S.L. 2009-445.)

**G.S. 277.1D — Inventory Property Tax Deferral:**

Allows a builder as defined in G.S. 105-273(3a) to defer the taxes on real property improvements of a residence for which a certificate of occupancy authorized by law has been issued. The difference in taxes for the fiscal years preceding the current tax year shall be carried forward in the records of the taxing unit or units as deferred taxes. Taxes are deferred until a disqualifying event takes place. A disqualifying event occurs at the earliest of (i) when the builder transfers the residence, (ii) when the residence is occupied by the builder or by someone other than the builder with the builder's consent, (iii) five years from the time the improved property was first subject to being listed for taxation by the builder, or (iv) three years from the time the improved property first received the property tax benefit provided by this section.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; Repealed effective for taxes imposed for taxable years beginning July 1, 2013; HB 862, s. 2, S.L. 2009-308.)

**G.S. 105-277.1F(a) — Tax Deferral:**

Adds a new subdivision to read: (2a) G.S. 105-277.1D, the inventory property tax deferral.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; Repealed effective for taxes imposed for taxable years beginning July 1, 2013; HB 862, s. 3, S.L. 2009-308.)

**G.S. 105-277.14 — Repealed:**

(Effective August 4, 2009; SB 509, s. 23(b), S.L. 2009-445.)

**G.S. 105-277.17 — Clarify the Valuation of Community Land Trust Property:**

Adds a new section to clarify the valuation of real property owned by a community land trust developer. The initial appraised value of community land trust property in the year the property first qualifies for classification under this section is the initial investment basis. In subsequent general reappraisals, the value of the community land trust property shall not exceed the sum of the restricted capital gain amount and the initial investment basis. The restricted capital gain amount is the market value of the community land trust property that would be established for the current general reappraisal if not for this classification adjusted to the maximum sales price permitted pursuant to the resale restrictions effective for a hypothetical sale occurring on the date of reappraisal, if less, and subtracting the initial investment basis and any silent mortgage amount.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1586, s. 1, S.L. 2009-481.)

**G.S. 105-278.6(e) — Low or Moderate-Income Housing:**

Changes the requirement that an organization has to construct low or moderate housing to require that property owned by the organization be used for low or moderate housing within five years from the first fiscal year the property was classified.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1586, s. 2, S.L. 2009-481.)

**G.S. 105-282.1(a) — Application for Property Tax Exemption or Exclusion:**

Adds G.S. 105-275(42) and (44) to list of property types that do not have to make an application for exclusion.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2008; SB 509, s. 23(c), S.L. 2009-445.)

**G.S. 105-282.1(a)(2)c — Application for Property Tax Exemption or Exclusion:**

Adds G.S. 105-277.14 to list of property types that only have to make a one-time application for taxation reduced valuation.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2009; SB 509, s. 23(d), S.L. 2009-445.)



**G.S. 105-282.1(a)(2)c — Application for Property Tax Exemption or Exclusion:**

Adds G.S. 105-277.15 to list of property types that only have to make a one-time application for taxation reduced valuation.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; SB 509, s. 23(e), S.L. 2009-445.)

**G.S. 105-282.1(a)(2)c — Application for Property Tax Exemption or Exclusion:**

Adds G.S. 105-277.17 to list of property types that only have to make a one-time application for taxation reduced valuation.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1586, s. 3, S.L. 2009-481.)

**G.S. 105-286 — Postpone a 2009 General Reappraisal:**

Allows a county to postpone a 2009 reappraisal if the county adopted a resolution to postpone the reappraisal between January 1, 2009 and June 30, 2009. Does not allow a county to go more than eight years between general reappraisals.

(Effective June 18, 2009; HB 1530, s. 1, S.L. 2009-180.)

**G.S. 105-317.2 — REPORT ON TRANSFERS OF REAL PROPERTY:** Adds a new section which requires that before a deed conveying property can be recorded the following information has to be included in each deed:

- 1) The name of each grantor and grantee and the mailing address of each grantor and grantee.
- (2) A statement whether the property includes the primary residence of a grantor.

Failure to comply with this section does not affect the validity of a duly recorded deed. This section does not apply to deeds of trust, deeds of release, or similar instruments.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2010; SB 405, s. 1, S.L. 2009-454.)

**G.S. 105-330 — Motor Vehicles:**

Makes numerous changes to the listing, appraising, assessing of motor vehicles and changes to the collecting of taxes on motor vehicles. These changes are necessary for the implementation of the combined property tax and motor vehicle registration system which goes into effect July 1, 2011 pursuant to House Bill 1779.

(Effective for July 1, 2011; SB 509, s. 24 & 25, S.L. 2009-445.)

**G.S. 105-361(a) — Property Tax Certificate:**

Requires the tax collector to furnish a tax certificate stating the amount of any taxes owed on the property and any deferred taxes and interest that would become due if a disqualifying event occurred. This certificate must be given to any person listed in this subsection who meets all the requirements of the subsection.

(Effective August 4, 2009; SB 509, s. 26, S.L. 2009-445.)

**G.S. 160A-215.2 — Heavy Equipment Gross Receipts Tax in Lieu of Property Tax:**

Requires an ordinance instead of a resolution be in place in order for a gross receipt on heavy equipment to be collected.

(Effective August 4, 2009; SB 509, s. 27, S.L. 2009-445.)

**G.S. 160A-417 — Payment of Delinquent Property Taxes:**

Provides that the towns of Columbia and Edenton may prohibit the issuance of a building permit to a delinquent taxpayer.

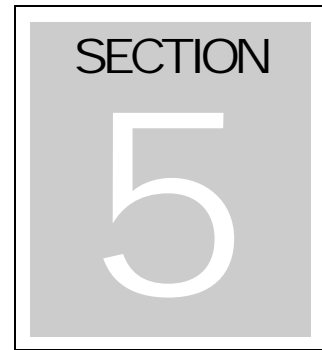
(Effective June 8, 2009; HB 563, s. 1, S.L. 2009-68.)

**G.S. 161-31(b) — Payment of Delinquent Property Taxes:**

Adds Catawba and Alexander counties to the list of counties authorized to require the payment of delinquent property taxes before recording deeds conveying property.

(Effective July 13, 2009; HB 215, s. 1, S.L. 2009-290.)

# MOTOR FUELS



## Motor Fuels

**G.S. 105-449.45(a) – Reporting Requirement:** This statute was amended to allow the Secretary to mandate electronic filing of the motor carrier returns. (Effective January 1, 2010; SB 509, s. 31.(a), S.L. 09-445)

**G.S. 105-449.47A – Technical:** This statute was amended to insert a missing word in the statute.  
(Effective August 7, 2009; SB 509, s. 32, S.L. 09-445.)

**G.S. 105-449.72 – Bonding Requirement Exemption:** This statute was amended to provide an exemption to the requirement that a distributor, importer, or motor fuel transporter must obtain a bond or irrevocable letter of credit when the licensee is supplying motor fuel into the State because the market for motor fuel has been disrupted and emergency supplies are needed. This exemption only applies when the emergency has been identified by an executive order of the Governor.  
(Effective August 7, 2009; SB 509, s. 33, S.L. 09-445.)

**G.S. 105-449.80(a) – Fuel Tax Rate Floor:** This statute was amended to impose a floor on the variable wholesale component of the motor fuel excise tax rate. The variable wholesale component of the motor fuel excise tax rate is 7% of the average wholesale price of motor fuel for the applicable base period or 12.4¢ per gallon, whichever is greater.  
(Effective for the period of July 1, 2009 – June 30, 2011; SB 200, s. 1, S.L. 09-108.)

**G.S. 105-449.81 – Taxation of Fuel Grade Ethanol:** This statute was amended to remove the exemption from tax on ethanol produced in this State or imported into this State and delivered to a licensed terminal. Ethanol will be taxed at the same point as gasoline.  
(Effective January 1, 2010; SB 509, s. 34(a), S.L. 09-445.)

**G.S. 105-449.83A – Clarifying:** This statute was amended to clarify that tax payments on fuel grade ethanol are payable by the refiner as well as the fuel alcohol provider.  
(Effective August 7, 2009; SB 509, s. 34(b), S.L. 09-445.)

**G.S. 105-449.95 – Recodification:** This statute was recodified as G.S. 105-449.105B. (Effective January 1, 2010 and applies to fuel purchased on or after this date; SB 509, s. 35(a), S.L. 09-445.)

**G.S. 105-449.105B – Refund Filing Requirement:** This statute was recodified from G.S. 105-449.95 and requires the licensee to file for the monthly hold harmless refund. Currently, the Department accumulates all fuel information from various third party returns and computes the hold harmless refund. (Effective January 1, 2010 and applies to fuel purchased on or after this date; SB 509, s. 35(a), S.L. 09-445.)

**G.S. 105-449.115 – Clarifying:** This statute was amended to identify all licensees who must provide a shipping document to a motor fuel transporter. The statute was further amended to clarify the information that is required on the shipping document for railroad tank cars. (Effective January 1, 2010; SB 509, s. 36(a), S.L. 09-445.)

**G.S. 105-449.121(b)(2) – Technical:** This statute was amended to correct a grammatical error to the term bulk end-user. (Effective August 7, 2009; SB 509, s. 37, S.L. 09-445.)

**G.S. 105-449.136 – Technical:** This statute was amended to update a cross-reference. (Effective August 7, 2009; SB 509, s. 38, S.L. 09-445.)