



**NORTH CAROLINA
DEPARTMENT OF REVENUE**

2010 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 2010, as well as,
- changes made by the 2010 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.

Thomas L. Dixon, Jr.
Assistant Secretary of Revenue
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(d)(7) – Other Adjustments to Taxable Income – Addition to Federal Taxable Income for Certain Net Operating Losses (NOLs)	1
G.S. 105-134.6(d)(8) – Other Adjustments to Taxable Income – Future Deduction of NOL Addition	2
G.S. 105-151.12(a) - Real Property Donated for a Conservation Purpose Can Be Used Only for That Purpose	2
G.S. 105-151.29(a)(4) – Credit for Qualifying Expenses of a Production Company	2
G.S. 105-151.29(b) – Credit for Qualifying Expenses of a Production Company	2
G.S. 105-151.29(b1) – Alternate Credit for Qualifying Expenses of a Production Company Repealed	2
G.S. 105-151.29(d) – Qualifying Expenses of a Production Company Subject to Audit	3
G.S. 105-151.29(f) – Credit Limit for Qualifying Expenses of a Production Company Increased	3
G.S. 105-159.1(a) – Reference to Political Party	3

TAX CREDIT SUNSETS

G.S. 105-151.30(f) - Extend Sunset for Tax Credit for Recycling Oyster Shells	3
G.S. 105-163.015 – Extend Sunset for Tax Credits for Qualified Business Investments	3

Section 2 – CORPORATE, EXCISE AND INSURANCE TAXES

PRIVILEGE TAXES

G.S. 105-37.1 – Conforming Change	4
G.S. 105-37.1(a)(1) – Gross Receipts Tax on Live Entertainment	4
G.S. 105-37.1(a)(2) – Gross Receipts Tax on Ticket Resales	4
G.S. 105-37.1(a)(3) – Repealed	4
G.S. 105-37.1(d) – Local Taxes	5
G.S. 14-344.1(a) – Internet Ticket Resale	5

TOBACCO PRODUCTS TAX

Chapter 58, Article 92 – Fire Safe Cigarettes	5
G.S. 58-92-10 – Definition of Brand Style	5
G.S. 58-92-15(p) – Fire Safe Cigarettes Standards Clarification	6
G.S. 105-113.40A – Technical Correction	6

FRANCHISE TAX

G.S. 105-122(b)(1a)– Billings in Excess of Costs	6
G.S. 105-122(c1)(2) – Conforming Change	6
G.S. 105-122(c1)(3) – Alternative Apportionment Method, 15 Year Option	6

CORPORATION INCOME TAX

G.S. 105-130.4(i) – Conforming Change	7
G.S. 105-130.4(s1) – Special Apportionment Formula for a Qualified Capital Intensive Corporation	7
G.S. 105-130.4(t1) – Conforming Change	8
G.S. 105-130.4(t2) – Alternative Apportionment Method, 15 Year Option	8
G.S. 105-130.5(a)(10) – Production Credit Not Subject to Add Back	8
G.S. 105-130.6 – Rules for Combined Return	8
G.S. 105-130.14 – Consolidated or Combined Returns	9
G.S. 105-130.34(a) – Real Property Donated for a Conservation Purpose	9
G.S. 105-130.41(C1) - Conforming Change to State Ports Authority Credit	9
G.S. 105-130.45(f) - Conforming Change to Manufacturing Cigarettes for Export Credit	9
G.S. 105-130.46(k) - Conforming Change to Manufacturing Cigarettes for Export While Increasing Employment and Use of State Ports Credit	9
G.S. 105-130.47(a)(4) – Definition of Qualifying Expenses	10
G.S. 105-130.47(b) – Production Company Credit	10
G.S. 105-130.47(b1) – Alternative Credit for Qualifying Expenses of a Production Company Repealed	10
G.S. 105-130.47(d) – Expense Verification	10
G.S. 105-130.47(f) – Credit Limitation	11
G.S. 105-130.47(h) – Report	11
G.S. 105-130.48 – Sunset for Recycling Oyster Shells	11

NORTH CAROLINA LIMITED LIABILITY COMPANY

G.S. 57C-2-01 – Low-Profit Limited Liability Company	11
------------------------------------------------------	----

INSURANCE GROSS PREMIUMS TAX

G.S. 58-6-25 – Insurance Regulatory Charge	11
--------------------------------------------	----

Section 3 – TAX CREDITS (Applies to Multiple Schedules)

TAX INCENTIVES FOR NEW AND EXPANDING BUSINESS - ARTICLE 3A

G.S. 105-129.2(8a) – Conforming Change	12
G.S. 105-129.6(b) – Conforming Change	12

BUSINESS AND ENERGY TAX CREDITS - ARTICLE 3B

G.S.105-129.15(2) – Definition of Cost	12
G.S.105-129.15(4b) – Definition of Installation	12
G.S.105-129.15(7) – Definition of Renewable Energy Property Expanded	13
G.S.105-129.16A– Credit for Investing in Renewable Energy	13
G.S.105-129.16A – Credit Ceiling	13
G.S.105-129.16D(b1) – Technical Change	13
G.S.105-129.16D(d)–Sunset for Constructing Renewable Fuel Facilities	14
G.S.105-129.16F(b)– Sunset for Biodiesel Producers	14
G.S.105-129.16I – Credit for a Renewable Energy Property Facility	14
G.S. 105-129.16J. – Temporary unemployment insurance refundable tax credit	14
G.S. 105-129.19 – Conforming Change	15

TAX INCENTIVES FOR RECYCLING FACILITIES - ARTICLE 3C	
G.S. 105-129.25(3) – Definition of Large Recycling Facility	15
G.S. 105-129.26(b) – Large Recycling Facility Credit Repealed	15
G.S. 105-129.26(e) – Conforming Change	15
G.S. 105-129.27 – Large Recycling Facility Credit Repealed	15
HISTORIC REHABILITATION TAX CREDITS - ARTICLE 3D	
G.S. 105-129.38 – Conforming Change	15
G.S. 105-129.39 – Sunset	15
LOW-INCOME HOUSING TAX CREDITS - ARTICLE 3E	
G.S. 105-129.44 - Conforming Change	16
TECHNOLOGY DEVELOPMENT - ARTICLE 3F	
G.S.105-129.50(2) – Definition of Full-Time Job	16
G.S.105-129.50(4a) – Definition of Participating Community College	16
G.S. 105-129.51 – Taxpayer Standards	16
G.S. 105-129.54 – Report	16
G.S. 105-129.55 – R&D in an Eco-Industrial Park	17
G.S. 105-129.56 – Interactive Digital Media Credit	17
TAX INCENTIVES FOR MAJOR COMPUTER MANUFACTURING FACILITIES - ARTICLE 3G	
G.S. 105-129.60 to 105-129.66 – Repealed	18
MILL REHABILITATION TAX CREDIT - ARTICLE 3H	
G.S. 105-129.75 – Extend Sunset for Mill Rehabilitation Tax Credits	18
G.S. 105-129.75A – Report	18
TAX CREDITS FOR GROWING BUSINESSES - ARTICLE 3J	
G.S. 105-129.81 – Definition of Environmental Disqualifying Event	19
G.S. 105-129.82(a) – Sunset	19
G.S. 105-129.83(e) – Environmental Impact	19
G.S. 105-129.83(i) – Forfeiture	20
G.S. 105-129.83(m) – No Double Benefit	20
G.S. 105-129.85(b) - Conforming Change	20
TAX INCENTIVES FOR RAILROAD INTERMODAL FACILITIES – ARTICLE 3K	
G.S. 105-129.98 - Conforming Change	20
TIER DESIGNATION	
G.S. 143B-437.08 – Development Tier Designation	20

Section 4 – SALES AND USE TAX

SALES AND USE TAX

G.S. 105-164.3 – Definitions	21
G.S. 105-164.4(a) – Increase in State Sales Tax Rate	21
G.S. 105-164.4(a)(6b) – Tax on Digital Property	22
G.S. 105-164.4(a)(1j) – Tax on Electricity Sold to Manufacturers and Farmers	22
G.S. 105-164.4(a)(3) – Accommodations	22
G.S. 105-164.4B(e) – Sourcing Principles – Accommodations	23
G.S. 105-164.13 – Exemptions and Exclusions	23
G.S. 105-164.14(a1) – Passenger Plane Maximum	25
G.S. 105-164.14(c) – Certain Governmental Entities	25
G.S. 105-164.14(c)(23) – Certain Governmental Entities	25
G.S. 105-164.14(f) – Information to Counties and Cities	26
G.S. 105-164.14(g) – Major Recycling Facilities	26
G.S. 105-164.14(h) – Low Enterprise or Development Tier Machinery	26
G.S. 105-164.14(j) – Certain Industrial Facilities	26
G.S. 105-164.14(j)(3) – Certain Industrial Facilities	26
G.S. 105-164.14(k) – Reports	26
G.S. 105-164.14(l) – Aviation Fuel for Motorsports Events	26
G.S. 105-164.14(m) – Professional Motor Racing Vehicles	27
G.S. 105-164.14(n) – Analytical Services Supplies	27
G.S. 105-164.14(o) – Eligible Railroad Intermodal Facilities	27
G.S. 105-164.14A – Economic Incentive Refunds	27
G.S. 105-164.14B – Certain Industrial Facilities Refunds	27
G.S. 105-164.15 – Secretary Shall Provide Forms	28
G.S. 105-164.16(b1) – Returns and Payment of Taxes- Monthly	28
G.S. 105-164.16(b2) – Returns and Payment of Taxes- Prepayment	28
G.S. 105-164.16(d) – Use Tax on Out of State Purchases	28
G. S. 105-164.29B - Information to Counties and Cities	28
G.S. 105-164.44F – Distribution of part of telecommunications taxes to cities	29
G.S. 105-164.44I – Distribution of part of sales tax on video programming and telecommunications	29
G.S. 105-164.44I(b) – Distribution of part of sales tax on video programming service and telecommunications service to counties and cities	29
G.S. 105-164.44J(b) – Supplemental PEG channel support	30

LOCAL SALES AND USE TAX

G.S. 105-466(c) – Levy of Tax	30
G.S. 105-467(b) – Exemptions and Refunds	30
G.S. 105-487 – Use of Additional Tax Revenue by Counties	30
G.S. 105-502– (Effective October 1, 2009) Use of Additional Tax Revenue by Counties	30
G.S. 105-522 – City Hold Harmless for Repealed Local Taxes	31
G.S. 105-523 – County Hold Harmless for Repealed Local Taxes	31
G.S. 105-523(b)(2) – County Hold Harmless for Repealed Local Taxes	32

HIGHWAY USE TAX – ARTICLE 5A

G.S. 105-187.3(b) – Retail Value	32
G.S. 105-187.6(a) – Full Exemptions	32

SCRAP TIRE DISPOSAL TAX –ARTICLE 5B	
G.S. 105-187.18(b) – Exemptions	32
G.S. 105-187.19(b) – Use of Tax Proceeds	33

WHITE GOODS DISPOSAL TAX –ARTICLE 5C	
G.S. 105-187.23 – Exemptions and Refunds	33
G.S. 105-187.24 – Use of Tax Proceeds	33

DRY-CLEANING SOLVENT TAX – ARTICLE 5D	
G.S. 105-187.33 – Exemptions and Refunds	33

MANUFACTURING FUEL AND CERTAIN MACHINERY AND EQUIPMENT – ARTICLE 5F	
G.S. 105-187.50 – Definitions	33
G.S. 105-187.51a.(1) – Tax Imposed on Mill Machinery	34
G.S. 105-187.51A – Privilege Tax on Manufacturing Fuel	34
G.S. 105-187.51C – Tax Imposed on Datacenter Machinery and Equipment	34
G.S. 105-187.51C(a)(1) – Tax Imposed on Datacenter Machinery and Equipment	34

Section 5 – PROPERTY TAX

PROPERTY TAX	
G.S. 105-275(29a) — Historic Property	35
G.S. 105-277.1C(b)(1) — Disabled Veteran Property Tax Homestead Exclusion	35
G.S. 277.1D — Inventory Property Tax Deferral	35
G.S. 105-278(b) — Historic Property	35
G.S. 105-278.6(e) — Low or Moderate Income Housing	35
G.S. 105-330.9 and G.S. 105-330.11 — Motor Vehicles	36
G.S. 105-333(14) — Public Service Company	36
G.S. 105-333(21) — Motor Freight Carrier Terminal	36
G.S. 105-501(b) — Reimbursement to the State for Local Government Services	36
G.S. 105A-2 and G.S. 105A-3(c) — Debt Set-Off	36
G.S. 153A-340, G.S. 153A-357(c)(2) and G.S. 105-360 — Currituck County and Pasquotank County	36
G.S. 161-31(b) — Payment of Delinquent Property Taxes	37
G.S. 161-31 — Payment of Delinquent Property Taxes	37
G.S. 153A-18(c) — Orange County and Alamance County Boundary	37

Section 6 – MOTOR FUELS

MOTOR FUELS	
G.S. 105-241(b)(2a) – Reporting and Payment Requirement	38
G.S. 105-449.37(a)(1) – Update Reference to the IFTA Agreement	38
G.S. 105-449.39 – Technical	38
G.S. 105-449.40(a) – Technical	38
G.S. 105-449.42 – Technical	38

G.S. 105-449.42A – Technical	38
G.S. 105-449.44(b) – Technical	38
G.S. 105-449.45 – Technical	38
G.S. 105-449.47A – Motor Carrier Registration Requirement	39
G.S. 105-449.105A – Partial Repeal of Undyed Kerosene Refund by Distributors	39
G.S. 105-449.105B – Technical	39
G.S. 105-449.106(b) – Definition of Taxicab	39
G.S. 105-449.106(c) – Clarification of Refund Eligibility for Special Mobile Equipment	39
G.S. 105-449.108(b) – Technical	39

Section 7 – GENERAL ADMINISTRATION

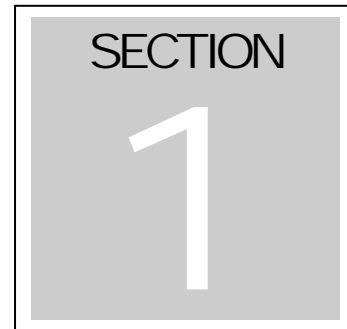
GENERAL ADMINISTRATION

G.S. 105-228.90(b)(1b) – Reference to the Internal Revenue Code Updated	40
G.S. 105-236(a)(4) – Failure to Pay Penalty	40
G.S. 105-236(a)(5)(f) – Negligence Penalty and Combined Return	41
G.S. 105-241.9(c)(2a) – Written Notice Requirements	42
G.S. 105-241.11(b) – Considered Filing Date of Request for Review	42
G.S. 105-241.11(c) – Request for Review of Failure to Pay Penalty	42
G.S. 105-241.16 – Judicial Review of Decision after Contested Case Hearing	42
G.S. 105-241.22(1) – Collection of Tax	42
G.S. 105-242(b) – Attachment and Garnishment	43
G.S. 105-242.1 – Garnishment by Electronic Means	43
G.S. 105-256(a)(2a) – Report	43
G.S. 105-259(b)(6a) – Conforming Change	43
G.S. 105-259(b)(18) – Disclosure	43
G.S. 105-259(b)(31) – Repealed	44
G.S. 105-259(b)(35) – Repealed	44
G.S. 105-259(b)(37) – Technical Change	44
G.S. 105-259(b)(40) – Disclosure	44
G.S. 105-259(b)(40) – Disclosure	44
G.S. 105-259(b)(41) – Disclosure	44
G.S. 105-262 – Rules	45
G.S. 105-263(a) – Timely Filing of Mailed Documents and Requests for Extensions	45
G.S. 105-264(c) – Give Taxpayers Notice of Revised Tax Interpretations	45

SETOFF DEBT COLLECTION ACT- CHAPTER 105A

G.S. 105A-2 Definitions	45
G.S. 105A-3(c) Identifying Information	46
G.S. 105A-14(a) Accounting to the Claimant Agency; Credit to Debtor’s Obligation	46

PERSONAL TAXES



INDIVIDUAL INCOME TAX

G.S. 105-134.2A – Income Tax Surtax: The temporary surtax enacted by the 2009 General Assembly is also effective for the tax year 2010, and is set to expire for taxable years beginning on or after January 1, 2011. 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 determined by filing status and North Carolina taxable income.

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(d)(7) – Other Adjustments to Taxable Income – Addition to Federal Taxable Income for Certain Net Operating Losses (NOLs): Under the American Recovery and Reinvestment Act (ARRA), P.L. 111-5, an Eligible Small Business (ESB) could elect to carry back an NOL from tax year 2008 for three, four, or five years, rather than the standard two years. An eligible small business is defined in section 172(b)(1)(H) of the Code. The Worker, Homeownership, and Business Assistance Act of 2009 (WHBAA) modified the ARRA by allowing businesses of every size to carry back 2008 or 2009 NOLs for up to five years, but with a 50 percent of federal taxable income limit on NOL offsets in the fifth year, and 100 percent in all remaining four carry back years.

The General Assembly adopted the provisions of the WHBAA, but enacted adjustments for certain taxpayers. Taxpayers must add to federal taxable income for tax years 2003, 2004, and 2005, any NOL deduction claimed under section 172(b)(1)(H) or section 810(b)(4) of the Code that is not an ESB loss. Similarly, taxpayers must add to taxable income for tax years 2004, 2005, and 2006, any NOL deduction claimed under section 172(b)(1)(H) or section 810(b)(4) of the Code that is not an ESB loss.

(Effective June 30, 2010; SB 897, s. 31.1.(b), S.L. 10-31.)

G.S. 105-134.6(d)(8) – Other Adjustments to Taxable Income – Future Deduction of NOL Addition: This subdivision was added to provide a future deduction from federal taxable income for the addition required under G.S. 105-134.6(d)(7). A deduction for one-third of the 2008 NOL absorbed on the 2003, 2004, and 2005 federal returns or the 2009 NOL absorbed on the 2004, 2005, and 2006 federal returns is allowed in tax years 2011, 2012, and 2013.

(Effective June 30, 2010; SB 897, s. 31.1.(b), S.L. 10-31.)

G.S. 105-151.12(a) - Real Property Donated for a Conservation Purpose Can Be Used Only for That Purpose: This subsection was amended to clarify that the property must be both donated and accepted in perpetuity for one of the purposes stated in the law to qualify for the credit.

(Effective August 2, 2010; HB 1829, s. 5.(b), S.L. 10-167.)

G.S. 105-151.29(a)(4) – Credit for Qualifying Expenses of a Production Company: This subdivision was rewritten to add new subparagraphs d. and e. Qualifying expenses now also include employee fringe contributions, including health, pension, and welfare contributions, as well as per diems, stipends, and living allowances paid for work being performed in this State.

(Effective for taxable years beginning on or after January 1, 2011 and applies to expenses incurred for productions ending on or after that date; HB 1973, s. 2.2, S.L. 10-147.)

G.S. 105-151.29(b) – Credit for Qualifying Expenses of a Production Company: This subsection was rewritten to increase the credit percentage from 15% to 25% of the production company's qualifying expenses.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 2.2, S.L. 10-147.)

G.S. 105-151.29(b1) – Alternate Credit for Qualifying Expenses of a Production Company Repealed: The alternative credit included in subsection (b1) by Senate Bill 943 for tax years beginning on or after January 1, 2010 has been repealed effective for tax years beginning on or after January 1, 2011. The alternative credit allowed 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.

(Effective for tax years beginning on or after January 1, 2011; HB 1973, s. 2.2, S.L. 10-147.)

G.S. 105-151.29(d) – Qualifying Expenses of a Production Company Subject to Audit: Language was added to clarify that the qualifying expenses are subject to audit by the Secretary before the credit is allowed.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 2.2, S.L. 10-147.)

G.S. 105-151.29(f) – Credit Limit for Qualifying Expenses of a Production Company Increased : The subsection was amended to increase the tax credit limitation from \$7,500,000 to \$20,000,000.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 2.2, S.L. 10-147.)

G.S. 105-159.1(a) – Reference to Political Party: This law provides that every individual whose income tax liability for the tax year is \$3.00 or more may designate on his or her income tax return that \$3.00 of the tax shall be credited to the North Carolina Political Parties Financing Fund. In the case of a married couple filing a joint return whose income tax liability is \$6.00 or more, each spouse may designate on the return that \$3.00 of the tax shall be credited. This subsection was rewritten to clarify that “political party” has same meaning as defined in G.S. 163-96.

(Effective July 17, 2010; SB 1177, s. 3, S.L. 10-95.)

TAX CREDIT SUNSETS

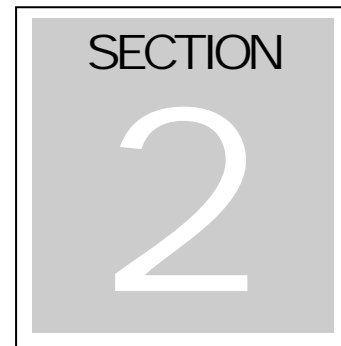
G.S. 105-151.30(f) - Extend Sunset for Tax Credit for Recycling Oyster Shells: This subsection was rewritten to extend the sunset for the credit to tax years beginning on or after January 1, 2013 (was January 1, 2011).

(Effective July 22, 2010; HB 1973, s. 4.2, S.L. 10-147.)

G.S. 105-163.015 – Extend Sunset for Tax Credits for Qualified Business Investments: The credit for qualified business investments was scheduled to expire for investments made on or after January 1, 2011. The credit now expires for investments made on or after January 1, 2013.

(Effective June 30, 2010; SB 897, s. 31.5.(b); S.L. 10-31.)

CORPORATE, EXCISE AND INSURANCE TAXES



PRIVILEGE TAXES

G.S. 105-37.1 – Conforming Change: The catchline was rewritten to replace “dances, athletic events, shows, exhibitions, and other entertainments” with “live entertainment and ticket resales.” The new heading incorporates the expansion of the tax to admission tickets resold over the internet.

(Effective June 30, 2010; SB 897, s. 31.7.(a), S.L. 10-31.)

G.S. 105-37.1(a)(1) – Gross Receipts Tax on Live Entertainment: This subdivision was rewritten to replace the references to specific types of entertain subject to the 3% gross receipts tax set out in subdivisions (1), (2) and (3) with the general term, “live entertainment of any kind.” The value of amenities is excluded from the amount subject to tax. If charges for amenities are not separately stated on the face of an admission ticket, then the charge subject to the tax is equal to the charge for a ticket to the same event for a seat that does not include amenities and is located directly in front of or closest to the seat that includes amenities.

(Effective for charges for admission received on or after August 1, 2010; SB 897, s.31.7.(a), S. L. 10-31.)

G.S. 105-37.1(a)(2) – Gross Receipts Tax on Ticket Resales: This subdivision was rewritten to levy the 3% gross receipts tax on a person engaged in the business of reselling admission tickets on the Internet under G.S. 14-344.1(a). The price subject to tax does not include the face price of the ticket. If the price is not printed on the ticket, the price subject to tax is the amount charged for the ticket by the reseller less the amount the reseller paid for the ticket.

(Effective for admission tickets sold on or after January 1, 2011; SB 897, s.31.7.(a), S. L. 10-31.)

G.S. 105-37.1(a)(3) – Repealed: The provisions of this subdivision were incorporated into subdivision (1) of this section. Therefore, this subdivision was repealed.

(Effective for admission tickets sold on or after January 1, 2011; SB 897, s.31.7.(a), S. L. 10-31.)

G.S. 105-37.1(d) – Local Taxes: This subsection was amended to prohibit local governments from levying a license tax on Internet ticket resellers. Under prior law, a county was permitted to levy a license tax on events taxed under G.S. 105-37.1(a)(3). This legislation repealed that subdivision and clarified that counties are prohibited from imposing a license tax on any activity taxed under this section.

(Effective June 30, 2010; SB 897, s.31.7.(a), S. L. 10-31.)

G.S. 14-344.1(a) – Internet Ticket Resale: Under existing law, a person may resell an admission ticket on the Internet at a price greater than the face value if the venue where the event will occur does not prohibit such activity and the reseller makes certain guarantees to protect the purchaser. This section was amended to add an additional provision requiring the reseller to collect and remit to the State the privilege tax levied under G.S. 105-37.1

(Effective June 30, 2010; SB 897, s.31.7.(b), S. L. 10-31.)

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. 58-92-10 – Definition of Brand Style: This new subdivision was added to define brand style as a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette, or packaging. This information is required in the certification submitted to the Commissioner of Insurance.

(Effective July 1, 2010; HB 1905, s.1, S.L. 10-101.)

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. 105-113.40A – Technical Correction: This section was amended to correct an error. As originally 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 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 term “Article” was replaced with “Part”.

(Effective July 17, 2010; SB 1177, s. 1, S.L. 10-95.)

FRANCHISE TAX

G.S.105-122(b)(1a)– Billings in Excess of Costs: The 2009 General Assembly enacted SB 367 which added this subdivision 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. The effective date was for taxable years beginning on or after January 1, 2010. During the 2010 session, the General Assembly amended the effective date, making it retroactive for taxable years beginning on or after January 1, 2007. A taxpayer that included billings in excess of costs in its franchise tax capital stock base in taxable years 2007, 2008, or 2009 may apply for a refund. However, the request must be made no later than January 1, 2011. A request made after that date is barred.

(Effective June 30, 2010; SB 897, ss. 31.9.(a), 31.9.(b), S.L. 10-31. Note: Franchise tax levied under G.S. 105-122 is for the income year of the corporation in which it becomes due.)

G.S. 105-122(c1)(2) – Conforming Change: This subsection was amended to clarify that the Secretary may grant a petition for alternative apportionment method for no more than three years unless the provisions of new subdivision (3) apply.

(Effective for requests for alternative apportionment formulas filed on or after July 11, 2010; HB 713, s. 2(c), S.L. 10-89.)

G.S. 105-122(c1)(3) – Alternative Apportionment Method, 15 Year Option: Under existing law, a corporation that believes the statutory apportionment methodology

subjects a greater portion of its capital stock, surplus and undivided profits to tax than is attributable to its business in the State may petition the Secretary for permission to use an alternative method. This new subsection was added to permit the Secretary to grant a qualifying corporation's request for alternative apportionment for as many as fifteen years rather than the three years allowed under subsection (c1)(2). To qualify, the corporation must sign a letter of commitment with the Secretary of Commerce by September 15, 2010 certifying that it will invest at least \$500 million in private funds to construct a facility in a development tier one area within five years after the time construction begins.

(Effective for requests for alternative apportionment formulas filed on or after July 11, 2010; HB 713, s. 2(c), S.L. 10-89.)

CORPORATION INCOME TAX

G.S. 105-130.4(i) – Conforming Change: This subsection was rewritten to conform to 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) – Conforming Change: This subdivision was amended to clarify that the Secretary may grant a petition for alternative apportionment method for no more than three years unless the provisions of new subdivision (t2) apply.

(Effective for requests for alternative apportionment formulas filed on or after July 11, 2010; HB 713, s. 2(a), S.L. 10-89.)

G.S. 105-130.4(t2) – Alternative Apportionment Method, 15 Year Option: Under existing law, a corporation that believes the statutory apportionment methodology subjects a greater portion of its income to tax than is attributable to its business in the State may petition the Secretary for permission to use an alternative method. This new subsection was added to permit the Secretary to grant a qualifying corporation's request for alternative apportionment for as many as fifteen years rather than the three years allowed under subsection (t1). To qualify, the corporation must sign a letter of commitment with the Secretary of Commerce by September 15, 2010 certifying that it will invest at least \$500 million in private funds to construct a facility in a development tier one area within five years after the time construction begins. A similar provision was enacted for franchise tax.

(Effective for requests for alternative apportionment formulas filed on or after July 11, 2010; HB 713, s. 2(b), S.L. 10-89.)

G.S. 105-130.5(a)(10) – Production Credit Not Subject to Add Back: This subdivision was amended to specifically exempt the production credit allowed under G.S. 105-130.47 from the addition to federal taxable income required for amounts claimed as credits against the corporate income tax.

(Effective for taxable years beginning on or after January 1, 2011; HB 713, s. 1, S.L. 10-89.)

G.S. 105-130.6 – Rules for Combined Return: This section was amended to permit the Secretary to adopt rules that describe the facts and circumstances under which the

Secretary will require a corporation to file a combined return. The Secretary will not be prohibited from requiring a combined return based on facts and circumstances not described in the rules if he finds that a return filed by a taxpayer does not disclose its true earnings in the State.

(Effective June 30, 2010; SB 897, s. 31.10.(d), S.L. 10-31.)

G.S. 105-130.14 – Consolidated or Combined Returns: This section requires a corporation that files a consolidated federal income tax return to file a separate entity return for State purposes unless required by the Secretary to file a consolidated or combined return. The section was amended to add two other conditions under which a combined return will be permitted. If the Secretary promulgates rules under G.S. 105-130.6 setting out the facts and circumstances under which the Secretary will require a combined return, a corporation whose facts and circumstances meet those of the rule must file a combined return in accordance with the rules. Additionally, when a corporation makes a written request of the Secretary and the Secretary provides written advice based on the facts and circumstances provided by the corporation that he will require a combined return, the corporation will file a combined returned in accordance with the written advice.

(Effective June 30, 2010; SB 897, s. 31.10.(e), S.L. 10-31.)

G.S. 105-130.34(a) – Real Property Donated for a Conservation Purpose: This subsection was amended to clarify that the property must be both donated and accepted in perpetuity for one of the purposes stated in the statute to qualify for the credit.

(Effective August 2, 2010; HB 1829, s. 5.(a), S.L. 10-167.)

G.S. 105-130.41(C1) - Conforming Change to State Ports Authority Credit: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

(Effective July 1, 2010; SB 1215, s. 1.11, S.L. 10-166.)

G.S. 105-130.45(f) - Conforming Change to Manufacturing Cigarettes for Export Credit: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

(Effective July 1, 2010; SB 1215, s. 1.12, S.L. 10-166.)

G.S. 105-130.46(k) - Conforming Change to Manufacturing Cigarettes for Export While Increasing Employment and Use of State Ports Credit: This section was amended to replace the existing reporting requirement with a reference to the new economic incentives report required under G.S. 105-256 and to set out what information

is to be included in that report. The following information will be reported and itemized by taxpayer:

- The number of taxpayers who took the credit,
- The amount of cigarettes and other tobacco products exported through the State ports with respect to which credits were taken,
- The percentage of domestic leaf content in cigarettes produced during the previous year, and
- The total cost to the General Fund.

(Effective July 1, 2010; SB 1215, s. 1.13, S.L. 10-166.)

G.S. 105-130.47(a)(4) – Definition of Qualifying Expenses: This subdivision was amended to add employee fringe contributions, including health, pension, and welfare contributions, as well as per diems, stipends, and living allowances paid for work being performed in the State to the list of expenses that qualify for the production credit.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 2.1, S.L. 10-147.)

G.S. 105-130.47(b) – Production Company Credit: This subsection was amended to increase the credit percentage from 15% of the production company's qualifying expenses to 25%.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 2.1, S.L. 10-147.)

G.S. 105-130.47(b1) – Alternative Credit for Qualifying Expenses of a Production Company Repealed: This subsection was added during the 2009 session of the General assembly to provide an election in computing the amount of credit for qualifying expenses. In lieu of the existing 15% credit, the taxpayer could choose to compute the credit at 25%. However, it was required to 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 2010 General Assembly repealed the section.

(Alternative Credit effective for taxable years beginning on or after January 1, 2010; SB 943, s. 1, S.L. 09-529. Repeal effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 2.1, S.L. 10-147.)

G.S. 105-130.47(d) – Expense Verification: This subsection was amended to clarify that qualifying expenses are subject to audit before the credit is allowed.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 2.1, S.L. 10-147.)

G.S. 105-130.47(f) – Credit Limitation: This subsection was amended to increase the ceiling of the production credit from \$7.5 million to \$20 million.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 2.1, S.L. 10-147.)

G.S. 105-130.47(h) – Report: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

(Effective July 1, 2010; SB 1215, s. 1.14, S.L. 10-166.)

G.S. 105-130.48 – Sunset for Recycling Oyster Shells: This subsection was amended to extend the sunset for two years. The credit is repealed effective for taxable years beginning on or after January 1, 2013.

(Effective July 22, 2010; HB 1973, s. 4.1, S.L. 10-147.)

NORTH CAROLINA LIMITED LIABILITY COMPANY

G.S. 57C-2-01 – Low-Profit Limited Liability Company: This new section permits the formation of a low-profit limited liability company. The name of the entity must contain the words “low-profit limited liability company” or “LC3”. Its purpose is to encourage investment in struggling businesses, particularly by nonprofit organizations. An LC3’s articles of organization will state that it is formed for both a business and a charitable purpose. However, it is considered a for-profit entity. If it fails to comply with its charitable purpose requirements, it remains a regular LLC. To meet the charitable purpose requirements, it must accomplish a charitable or educational purpose, its principal purpose of operation is not the production of income or appreciation of property, and it operates for no political or legislative purpose.

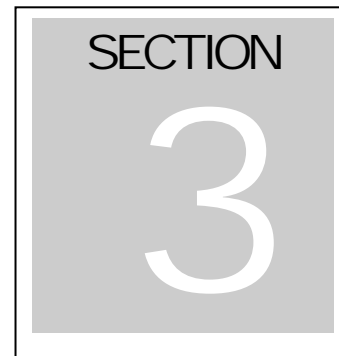
(Effective August 3, 2010; SB 308, s. 1, S.L. 10-187.)

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.)

TAX CREDITS
(Applies to Multiple Schedules)



**TAX INCENTIVES FOR NEW AND EXPANDING BUSINESS –
ARTICLE 3A**

G.S. 105-129.2(8a) – Conforming Change: This subdivision was amended to correct a statutory reference to a sales tax statute in the definition of eligible major industry.

(Effective July 1, 2010; SB 1215, s. 3.2, S.L. 10-166.)

G.S. 105-129.6(b) – Conforming Change: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

(Effective July 1, 2010; SB 1215, s. 1.1, S.L. 10-166.)

BUSINESS AND ENERGY TAX CREDITS - ARTICLE 3B

G.S.105-129.15(2) – Definition of Cost: This subsection was amended to add a new provision for leased property. If the taxpayer claims either a federal energy credit under section 48 of the Code or a federal grant in lieu of that credit and makes a lease pass-through election under the Code, the cost of the leased renewable energy property is the cost determined under the Code rather than eight times the net annual rental rate.

(Effective for taxable years beginning on or after January 1, 2010; HB 1829, s.2.(a), S.L. 2010-167.)

G.S.105-129.15(4b) – Definition of Installation: This new subsection was added to define installation of renewable energy property as property that, standing alone or in combination with other machinery, equipment, or real property, is able to produce usable energy on its own.

(Effective for taxable years beginning on or after January 1, 2010; HB 1829, s.2.(a), S.L. 2010-167.)

G.S.105-129.15(7) – Definition of Renewable Energy Property Expanded: This section was amended to add a subsection to expand the definition of renewable energy property to include combined heat and power system property as defined in section 48 of the Code. Additionally, the definition of wind equipment was expanded to include equipment required to relay the electricity by cable from the turbine motor to the power grid. The section was also amended to combine two existing subsections, (e) and (f), that define types of geothermal equipment into one subsection, (c).

(Effective for taxable years beginning on or after January 1, 2010; HB 1829, s.2.(a), S.L. 2010-167.)

G.S.105-129.16A– Credit for Investing in Renewable Energy Property: This section was amended by two separate pieces of legislation. In the first, amendments made to the renewable energy property credit against North Carolina personal and corporate income, corporate franchise, and insurance gross premium taxes clarify that the credit may be claimed for property for which a taxpayer has received federal renewable energy grants authorized under the American Recovery and Reinvestment Tax Act of 2009. Under the North Carolina statute, taxpayers are precluded from claiming the credit for property purchased with public funds. The modifications made by this legislation specify that the Recovery Act grants are not considered public funds for purposes of this credit.

The second legislation added a provision to require a lessor of renewable energy property to provide to the lessee a statement that describes the property and states the cost of the property. It also replaced the terms nonresidential property and residential property with the terms business and nonbusiness, respectively. Business property generates useful energy that is offered for sale or is used on-site for a purpose other than providing energy to a residence.

(Legislation enacted regarding public funds is effective for taxable years beginning on or after January 1, 2009 and applies to renewable energy property placed in service on or after that date; SB 388, s.1, S.L. 2010-4. The second legislation is effective for taxable years beginning on or after January 1, 2010; HB 1829, s.2.(b), S.L. 2010-167.)

G.S.105-129.16A – Credit Ceiling: This new subdivision was added to place a ceiling of \$5,000,000 on each installation of renewable energy property placed in service at an Eco-Industrial Park as defined in G.S. 143B-437.08.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 5.4, S.L. 10-147.)

G.S.105-129.16D(b1) – Technical Change: This subsection was rewritten to correct a statutory reference. G.S. 105-241.1(i) was replaced with G.S. 105-241.21 regarding interest rate.

(Effective July 17, 2010; SB 1177, s. 2, S.L. 10-95.)

G.S.105-129.16D(d)–Sunset for Constructing Renewable Fuel Facilities: This subsection was amended to extend the sunset. The credit will expire for facilities placed in service on or after January 1, 2013.

(Effective August 2, 2010; HB 1829, s. 1(a), S.L. 10-167.)

G.S.105-129.16F(b)– Sunset for Biodiesel Producers: This subsection was amended to extend the sunset. The credit will expire for tax years beginning on or after January 1, 2013.

(Effective August 2, 2010; HB 1829, s. 1(b), S.L. 10-167.)

G.S.105-129.16I – Credit for a Renewable Energy Property Facility: This new section reinstates and expands the credit for constructing a facility to manufacture renewable energy property in this State which was codified under G.S. 105-130.28 and expired in 2006. The credit is 25% of the cost to construct or convert and equip a facility to manufacture renewable energy property or a major component subassembly for a solar array or a wind turbine. The credit is taken in five equal installments beginning in the year the property is placed in service. If the property is disposed or taken out of service during any year in which an installment of the credit accrues, the credit expires and the taxpayer may not take any remaining installments. It may, however, take any carry forward amount of a previous installment, subject to the five year carry forward limitation.

(Effective for taxable years beginning on or after January 1, 2011 and expires for facilities placed in service on or after January 1, 2014; HB 1829, s. 3.(a), S.L. 10-167.)

G.S. 105-129.16J. – Temporary unemployment insurance refundable tax credit: A new section was added to allow a tax credit for small businesses that make contributions to the State Unemployment Insurance Fund with respect to wages paid for employment in this State. A small business is defined as a business whose cumulative gross receipts from the business activity for the tax year do not exceed one million dollars (\$1,000,000). The amount of tax credit allowed is 25% of the qualified contributions to the State Unemployment Insurance Fund and applies to taxable years 2010 and 2011 only.

This credit may be claimed only against corporate and individual income taxes. If the credit exceeds the amount of tax for the taxable year reduced by the sum of all credits allowable, the excess is refundable. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in Article 4. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(Effective for taxes imposed for taxable years beginning on or after January 1, 2010; SB 897; s. 31.1A.(a), S.L. 10-31.)

G.S. 105-129.19 – Conforming Change: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

(Effective July 1, 2010; SB 1215, s. 1.2, S.L. 10-166.)

TAX INCENTIVES FOR RECYCLING FACILITIES - ARTICLE 3C

G.S. 105-129.25(3) – Definition of Large Recycling Facility: This subdivision was deleted because the tax credit for large recycling facilities was repealed.

(Effective July 1, 2010; SB 1215, s. 2.1, S.L. 10-166.)

G.S. 105-129.26(b) – Large Recycling Facility Credit Repealed: This subsection was repealed because the credit for a large recycling facility has never been claimed. Only the credit for major recycling facility remains.

(Effective July 1, 2010; SB 1215, s. 2.1, S.L. 10-166.)

G.S. 105-129.26(e) – Conforming Change: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

(Effective July 1, 2010; SB 1215, s. 1.3, S.L. 10-166.)

G.S. 105-129.27 – Large Recycling Facility Credit Repealed: This section was rewritten to delete the language that provided a 20% credit for machinery and equipment placed in service in a large recycling facility. The credit was never claimed.

(Effective July 1, 2010; SB 1215, s. 2.1, S.L. 10-166.)

HISTORIC REHABILITATION TAX CREDITS - ARTICLE 3D

G.S. 105-129.38 – Conforming Change: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

(Effective July 1, 2010; SB 1215, s. 1.4, S.L. 10-166.)

G.S. 105-129.39 – Sunset: This section was added to establish a sunset. The credit will expire for qualified rehabilitation expenses and rehabilitation expenses incurred on or after January 1, 2014.

(Effective July 1, 2010; SB 1215, s. 1.5, S.L. 10-166.)

LOW-INCOME HOUSING TAX CREDITS - ARTICLE 3E

G.S. 105-129.44 - Conforming Change: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

(Effective July 1, 2010; SB 1215, s. 1.6, S.L. 10-166.)

TECHNOLOGY DEVELOPMENT - ARTICLE 3F

Title Change – The title of Article 3F, Research and Development, was rewritten to read “Technology Development” in order to accommodate the new credit for developing interactive digital media.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 3.1, S.L. 10-147.)

G.S.105-129.50(2) – Definition of Full-Time Job: This subsection was amended to add the definition of full-time job to Article 3F and cross-references the definition to Article 3J, which is a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 3.2, S.L. 10-147.)

G.S.105-129.50(4a) – Definition of Participating Community College: This subsection was added to define a participating community college as one that offers an associate in applied science degree in simulation and game development.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 3.2, S.L. 10-147.)

G.S. 105-129.51 – Taxpayer Standards: This section was amended to expand the requirements for eligibility for the credits in Article 3F. In addition to satisfying the requirements related to the wage standard, health insurance, environmental impact, and safety and health programs, the taxpayer must also have no overdue tax debts.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 3.3, S.L. 10-147.)

G.S. 105-129.54 – Report: This section was amended by two pieces of legislation. As originally written, the section required the Department to publish a report specific to the Research and Development credit, itemizing the report by taxpayer. The first amendment deletes the requirement for a separate report and instead sets out the

details that are to be included in a new economic incentives report required under G.S. 105-256.

The second amendment expands the reporting requirement. With the addition of the interactive digital media credit to Article 3F, the amended statute requires the Department to itemize the report by type of credit as well as by taxpayer. Additionally, with respect to the Research and Development credit, the report must be itemized by categories of small business, low-tier, university research, other and a new zone designation, Eco-Industrial Park. The interactive digital media credit must be itemized by the categories of higher education collaboration and other.

(The amendment to cross reference G.S. 105-256 is effective July 1, 2010; SB 1215, s. 1.7, S.L. 10-166. The second amendment is effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 3.5, S.L. 10-147.)

G.S. 105-129.55 – R&D in an Eco-Industrial Park: This section was amended to create a new category of expense eligible for the research and development credit. A taxpayer that has qualified North Carolina research expenses is allowed a credit equal to a percentage of the expenses. The percentage is dependent upon the category under which the expense falls. The new category is an Eco-Industrial Park certified under G.S. 143B-437.08. The percentage of expenses with respect to research performed in an Eco-Industrial Park is 35%.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 5.5, S.L. 10-147.)

G.S. 105-129.56 – Interactive Digital Media Credit: This new section creates a credit for an industry that develops in this State interactive digital media (“IDM”) or a digital platform or engine for use in interactive digital media. IDM is a product that is produced for distribution on electronic media, including distribution over the Internet, contains a computer-controlled virtual universe with which an individual interacts in order to achieve a goal, and contains a significant amount of at least three of the following types of data: animated images, fixed images, sound, text, and 3D geometry.

The credit is equal to a percentage of the taxpayer’s expenses that exceed \$50,000. Qualifying expenses are compensation and wages for a full-time job on which withholding payments are remitted, employee fringe contributions on compensation and wages, including health, pension, and welfare contributions, and amounts paid to a participating community college or a research university for services performed in this State. The credit is equal to 20% of the allowable expenses paid to a participating community college or a research university. The credit for other allowable expenses is limited to 15%. The credit may not exceed \$7.5 million.

The following types of interactive digital media do not qualify for the credit:

- developed by the taxpayer for internal use,
- interpersonal communications service, such as videoconferencing, wireless telecommunication, a text-based channel, or a chat room,

- an internet site that is primarily static and primarily designed to provide information about a person or business,
- gambling or casino game,
- political advertising,
- is obscene as defined in G.S. 14-190.1 or is harmful to minors as defined in G.S. 14-190.13.

A taxpayer claiming the IDM credit may not claim any other credit under chapter 105 or a JDIG or One North Carolina Fund grant with respect to the expenses used to determine the IDM credit. Like the Research and Development credit, the taxpayer must make a binding election to claim the IDM credit against the income taxes levied in Article 4 or franchise tax levied in Article 3 and the credit is limited to 50% of the tax. Unused portions of the credit may be carried forward for 15 years.

(Effective for taxable years beginning on or after January 1, 2011, HB 1973, s. 3.6, S.L. 10-147.)

TAX INCENTIVES FOR MAJOR COMPUTER MANUFACTURING FACILITIES - ARTICLE 3G

G.S. 105-129.60 to 105-129.66 – Repealed: This Article was repealed.

(Effective July 1, 2010; SB 1215, s. 2.2, S.L. 10-166.)

MILL REHABILITATION TAX CREDIT - ARTICLE 3H

G.S. 105-129.75 – Extend Sunset for Mill Rehabilitation Tax Credits: This section was rewritten to extend the sunset of the Article 3H credits to January 1, 2014, for rehabilitation projects for which an application for eligibility certification is submitted on or after that date (was January 1, 2011).

(Effective June 30, 2010; SB 897, s. 31.5.(a); S.L. 10-31.)

G.S. 105-129.75A – Report: This new section was added to set out what information is to be included in the economic incentives report required under G.S. 105-256. The following information will be reported and itemized by taxpayer:

- The number of taxpayers that took a mill rehabilitation credit,
- The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken, and
- The total cost to the general fund.

(Effective July 1, 2010; SB 1215, s. 1.8, S.L. 10-166.)

TAX CREDITS FOR GROWING BUSINESSES - ARTICLE 3J

G.S. 105-129.81 – Definition of Environmental Disqualifying Event: This new subdivision was added to define events that would result in a taxpayer's disqualification for Article 3J credits. Those events include:

A civil penalty assessed against the taxpayer by the Department of Environment and Natural Resources ("DENR") during the tax year in which the activity occurred for which a credit is being claimed for failure to comply with an order issued by an agency of that Department to abate or remediate a violation of any program administered by the agency;

A finding by DENR that the taxpayer, during the tax year in which the activity occurred for which a credit is being claimed or in the two prior tax years, knowingly and willfully committed a violation of any program implemented by a DENR agency or was assessed for damages to fish or wildlife or was issued a judicial order for injunctive relief in connection with a violation of any DENR program;

A criminal penalty was imposed against the taxpayer in connection with any DENR agency during the tax year in which the activity occurred for which a credit is being claimed or in the four prior tax years.

(Effective for credits claimed for taxable years beginning on or after January 1, 2007; HB 1973, s. 1.3, S.L. 10-147.)

G.S. 105-129.82(a) – Sunset: This subdivision was amended to extend the sunset for two more years. The credit will expire for business activities that occur on or after January 1, 2013.

(Effective July 22, 2010; HB 1973, s. 1.1, S.L. 10-147.)

G.S. 105-129.83(e) – Environmental Impact: This subdivision of the Eligibility and Forfeiture section was amended to modify the circumstances under which a taxpayer becomes ineligible for Article 3J credits due to violations of programs administered by the Department of Environmental and Natural Resources ("DENR"). A taxpayer becomes ineligible if there has been a final determination unfavorable to the taxpayer with respect to an environmental disqualifying event, defined in G.S. 105-129.81. A final determination occurs when there is no further opportunity for the taxpayer to seek administrative or judicial review of the disqualifying event and the disqualifying event has not been reversed or withdrawn. DENR will provide to the Department by January 31 of each year a list of all environmental disqualifying events for which a final determination unfavorable to the taxpayer was made during the prior calendar year, including the taxpayer name and the date the disqualifying event occurred.

(Effective for credits claimed for taxable years beginning on or after January 1, 2007; HB 1973, s. 1.4, S.L. 10-147.)

G.S. 105-129.83(i) – Forfeiture: This subdivision of the Eligibility and Forfeiture section was amended to add a provision that will require a taxpayer to forfeit an Article 3J credit previously allowed if a final determination unfavorable to the taxpayer with respect to an environmental disqualifying event is made that is applicable to the year in which the activity occurred for which the credit was claimed.

(Effective for credits claimed for taxable years beginning on or after January 1, 2007; HB 1973, s. 1.4, S.L. 10-147.)

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.)

G.S. 105-129.85(b) - Conforming Change: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

(Effective July 1, 2010; SB 1215, s. 1.9, S.L. 10-166.)

TAX INCENTIVES FOR RAILROAD INTERMODAL FACILITIES – ARTICLE 3K

G.S. 105-129.98 - Conforming Change: To increase uniformity in reporting requirements for tax credits, a new subdivision was added to G.S. 105-256(a). This subsection was amended to reference the new statute.

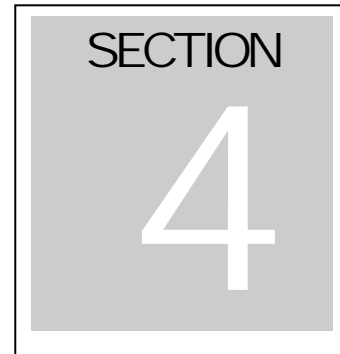
(Effective July 1, 2010; SB 1215, s. 1.10, S.L. 10-166.)

TIER DESIGNATION

G.S. 143B-437.08 – Development Tier Designation: This section was amended by adding a new subsection to designate an Eco-Industrial Park as development tier one.

(Effective for taxable years beginning on or after January 1, 2011; HB 1973, s. 5.1, S. L. 10-147.)

SALES AND USE TAX



SALES AND USE TAX

G.S. 105-164.3 – Definitions: The 2009 and 2010 General Assembly added and revised multiple definitions. The changes and their effective dates are as follows:

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

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

Development tier – (6a). This definition is added as the classification assigned to an area pursuant to G.S. 143B-437.08.

(Effective July 1, 2010; SB 1215, s. 3.3, S.L. 10-166.)

Eligible Internet datacenter – (8e). This definition is amended to indicate the facility is used primarily or is to be used primary by a business engaged in software publishing included in industry 511210 of NAICS or an Internet activity included in industry 519130 of NAICS will be considered an eligible Internet datacenter if all other conditions are met.

(Effective July 1, 2010; SB 1171, s. 1, S.L. 10-91.)

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

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

NAICS – (23a). This definition is amended to replace a statutory reference with The North American Industry Classification System adopted by the United States Office of Management and Budget as of December 31, 2007.

(Effective July 1, 2010; SB 1171, s. 2, S.L. 10-91.)

G.S. 105-164.4(a) – Increase in State Sales Tax Rate: The State general rate of tax increased from 5.5% to 5.75% on October 1, 2009. This occurred 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 July 1, 2011, the State general rate of tax is scheduled to decrease from 5.75% to 4.75%.

(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 subdivision is repealed effective July 1, 2010.

(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 sold to a manufacturer for use in connection with the operation of a manufacturing facility and sales of electricity are sold to a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purpose 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. 105-164.4(a)(3) – Accommodations: This subdivision is amended to modernize sales tax on accommodations “A tax at the general rate applies to the gross receipts derived from the rental of an accommodation. The tax does not apply to a private residence or cottage that is rented for fewer than 15 days in a calendar year or to an accommodation rented to the same person for a period of 90 or more continuous days. Gross receipts derived from the rental of an accommodation include the sales price of the rental of the accommodation. The sales price of the rental of an accommodation is determined as if the rental were a rental of tangible personal property. The sales price of the rental of an accommodation marketed by a facilitator includes charges designated as facilitation fees and any other charges necessary to complete the rental. A person who provides an accommodation that is offered for rent is considered a retailer under this Article. A facilitator must report to the retailer with whom it has a contract the sales

price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator. A person who, by written contract, agrees to be the rental agent for the provider of an accommodation is considered a retailer under this Article and is liable for the tax imposed by this subdivision. The liability of a rental agent for the tax imposed by this subdivision relieves the provider of the accommodation from liability. A rental agent includes a real estate broker, as defined in G.S. 93A-2. The following definitions apply in this subdivision: a. Accommodation. – A hotel room, a motel room, a residence, a cottage, or a similar lodging facility for occupancy by an individual. b. Facilitator. – A person who is not a rental agent and who contracts with a provider of an accommodation to market the accommodation and to accept payment from the consumer for the accommodation.”

(Effective January 1, 2011 and applies to gross receipts derived from the rental of an accommodation on or after that date; SB 897, s. 31.6.(a), S.L. 10-31. Makes a technical change to replace “act” with the word “section”; SB 1202, s. 10.2., S.L. 10-123.)

G.S. 105-164.4B(e) – Sourcing Principles – Accommodations: This is a new subsection to source the rental of an accommodation, as defined in G.S. 105-164.4(a)(3) to the location of the accommodation.

(Effective January 1, 2011 and applies to gross receipts derived from the rental of an accommodation on or after that date; SB 897, s. 31.6.(b), S.L. 10-31.)

G.S. 105-164.13 – Exemptions and Exclusions: The 2009 and 2010 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:

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 of wood chippers – (4g). This is a new exemption for sales of wood chippers that meet all of the following requirements: a. It is designed to be towed by a motor vehicle. b. It is assigned a 17-digit vehicle identification number by the National Highway Transportation Safety Association. c. It is sold to a person who purchases a motor vehicle in this State that is to be registered in another state and who uses the purchased motor vehicle to tow the wood chipper to the state in which the purchased motor vehicle is to be registered.

(Effective July 1, 2009 and applies to sales made on or after that date; HB 1973, s. 6.1, S.L. 10-147.)

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. Therefore magazine subscriptions are subject to sales and use tax.

(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 electricity and eligible business property for use at an eligible Internet datacenter – (55). This exemption amends subdivision “a.” to add the stipulation that eligible business property is property that is capitalized for tax purposes under the code and is used for the provision of a service included in the business of the primary use of the datacenter. There was also a grammatical change with the word “datacenter” throughout this exemption.

(Effective July 1, 2010; SB 1171, s. 3, S.L. 10-91.)

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. 105-164.14(a1) – Passenger Plane Maximum: Pursuant to S.L. 10-31 this subsection is amended to extend the repeal date from January 1, 2011 to January 1, 2013. Pursuant to S.L. 10-166 this subsection is repealed. The refund provision is incorporated in G.S. 105-164.14A as Passenger Air Carrier.

(Effective July 1, 2010; SB 897, s. 31.5.(c), S.L. 10-31; Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14(c) – Certain Governmental Entities: A joint agency created by an interlocal agreement pursuant to G.S. 160A-462 to operate a cable system that provides video programming services is allowed a refund of sales and use tax paid by it on purchases made on or after July 1, 2007, and before June 30, 2010, to the same extent allowed to a city under G.S. 105-164.14(c). Notwithstanding G.S. 105-164.14, the joint agency must make a request for a refund in writing before January 1, 2011.

(Effective July 22, 2010; HB 455, s. 1, S.L. 10-153.)

G.S. 105-164.14(c)(23) – Certain Governmental Entities: This new subsection allows a public library created pursuant to an act of the General Assembly to receive an annual refund of sales and use tax.

(Effective July 1, 2008 and applies to purchases made on or after that date; SB 1177, s. 4.(a), S.L. 10-95.)

G.S. 105-164.14(f) – Information to Counties and Cities: This subsection is repealed, but is added back in G.S. 105-164.29B.

(Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14(g) – Major Recycling Facilities: This subsection is repealed, but is added back in G.S. 105-164.14A as Major Recycling Facility.

(Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14(h) – Low Enterprise or Development Tier Machinery: This subsection is repealed, but is added back in G.S. 105-164.14A as Business Low-Tier Area.

(Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14(j) – Certain Industrial Facilities: This subsection is repealed, but is added back in G.S. 105-164.14B as Certain Industrial Facilities Refunds.

(Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14(j)(3) – Certain Industrial Facilities: This subdivision is amended to add two new sub-subdivisions that are eligible for refund: paper-from-pulp manufacturing and turbine manufacturing. Paper-from-pulp manufacturing means an industry primarily engaged in manufacturing or converting paper, other than newsprint or uncoated groundwood paper, from pulp or pulp products, or in converting purchased sanitary paper stock or wadding into sanitary paper products. Turbine manufacturing means an industry primarily engaged in manufacturing turbines or complete turbine generator set units, such as steam, hydraulic, gas, and wind. Turbine manufacturing under this provision does not include the manufacturing of aircraft turbines.

(Effective July 1, 2010; SB 1171, s. 4, S.L. 10-91.)

G.S. 105-164.14(k) – Reports: This subsection is repealed, but is added back in G.S. 105-164.14A and G.S. 105-164.14B.

(Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14(l) – Aviation Fuel for Motorsports Events: Pursuant to S.L. 10-31 this subsection is amended to extend the repeal date from January 1, 2011 to January 1, 2013. Pursuant to S.L. 10-166 this subsection is repealed. This refund provision is incorporated in G.S. 105-164.14A as Motorsports Team or Sanctioning Body.

(Effective July 1, 2010; SB 897, s. 31.5.(d), S.L. 10-31; Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14(m) – Professional Motor Racing Vehicles: This subsection is repealed, but is added back in G.S. 105-164.14A as Professional Motorsports Team.

(Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14(n) – Analytical Services Supplies: This subsection is repealed, but is added back in G.S. 105-164.14A as Analytical Services Business.

(Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14(o) – Eligible Railroad Intermodal Facilities: This subsection is repealed, but is added back in G.S. 105-164.14A as Railroad Intermodal Facility.

(Effective July 1, 2010; SB 1215, s. 1.17., S.L. 10-166.)

G.S. 105-164.14A – Economic Incentive Refunds: This section was added to combine all of the economic incentive refunds into a more concise organization. The due date of all of the refunds in this section is standardized to be due six months after the end of the fiscal year and refunds applied for or after due date are barred. No substantive requirement change for Passenger Air Carrier from G.S. 105-164.14(a1) except for due date. No substantive requirement change for Major Recycling Facility from G.S. 105-164.14(g) except for the due date. Business in Low-Tier Area is amended from G.S. 105-164.14(h) to only allow refunds of businesses listed in G.S. 105-129.83(a) in a development tier one area. No substantive requirement change for Motorsports Team or Sanctioning Body from G.S. 105-164.14(l). Professional Motorsports Team is amended from G.S. 105-164.14(m) to add a repeal date of January 1, 2014. Analytical Services Business is amended from G.S. 105-164.14(n) to add a repeal date of January 1, 2013. Railroad Intermodal Facility is amended from G.S. 105-164.14(o) to add a repeal date of January 1, 2038. The first claim for refund for a taxpayer whose sales tax refund period is changed by this act is due within six months after June 30, 2010, and applies to purchases during the time period not covered by the taxpayer's last claim for a refund.

(Effective July 1, 2010; SB 1215, s. 1.18., S.L. 10-166.)

G.S. 105-164.14B – Certain Industrial Facilities Refunds: This section was added to combine all of the industrial facility refunds into a more concise organization. No substantive changes for Air Courier Services, Aircraft Manufacturing, Bioprocessing, Financial services, securities operations, and related systems development, Motor Vehicle Manufacturing, Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines, Semiconductor manufacturing, and Solar electricity generating material manufacturing from G.S. 105-164.14(j). Computer Manufacturing is

deleted from this section as compared to G.S. 105-164.14(j) that was repealed effective July 1, 2010.

(Effective July 1, 2010; SB 1215, s. 1.19., S.L. 10-166.)

G.S. 105-164.15 – Secretary Shall Provide Forms: This section is repealed. G.S. 105-254 continues to set out the Department’s responsibilities to furnish forms.

(Effective July 17, 2010; SB 1177, s. 13, S.L. 10-95.)

G.S. 105-164.16(b1) – Returns and Payment of Taxes- Monthly: This subsection is amended by changing the upper threshold for a monthly filer and payer from less than \$10,000 to less than \$15,000.

(Effective October 1, 2010; SB 897, s. 31.3.(a), S.L. 10-31. Effective October 1, 2011, the upper threshold increases to \$20,000; SB 897, s.31.3.(c), S.L. 10-31. The Department is required to notify taxpayers who are no longer required to make a monthly prepayment of the next month’s sales and use tax liability after conducting a review; SB 897, s 31.3.(e), S.L. 10-31.)

G.S. 105-164.16(b2) – Returns and Payment of Taxes- Prepayment: This subsection is amended by changing the lower threshold for monthly with prepayment filer and payer from at least \$10,000 to at least \$15,000.

(Effective October 1, 2010; SB 897, s. 31.3.(b), S.L. 10-31. Effective October 1, 2011, the lower threshold increases to at least \$20,000; SB 897, s.31.3.(d), S.L. 10-31. The Department is required to notify taxpayers who are no longer required to make a monthly prepayment of the next month’s sales and use tax liability after conducting a review; SB 897, s 31.3.(e), S.L. 10-31.)

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. 105-164.29B - Information to Counties and Cities: This subsection was added and requires that “The Secretary must give information on refunds of tax made under this Article to a designated county or city official within 30 days after the official makes a written request to the Secretary for the information. For a request made by a county official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one thousand dollars (\$1,000) of tax paid to the county. For a request made by a city official, the Secretary must give the official a list of each claimant that received a refund in the past 12 months of at least one thousand dollars (\$1,000) of tax paid to all the counties in which the city is located. The list must include

the name and address of each of these claimants and the amount of the refund received from each county covered by the request. A claimant that has received a refund under this Article of tax paid to a county must give information on the refund to a designated official of the county or a city located in the county. The claimant must give the information to the county or city official within 30 days after the official makes a written request to the claimant for the information. For a request by a county or city official, the claimant must give the official a copy of the request for the refund and any supporting documentation requested by the official to verify the request. If a claimant determines that a refund it has received under this Article is incorrect, the claimant must file an amended request for a refund. For purposes of this section, a designated county official is the chair of the board of county commissioners or a county official designated in a resolution adopted by the Board, and a designated city official is the mayor of the city or a city official designated in a resolution adopted by the city's governing board. Information given to a county or city official under this section is not a public record and may not be disclosed except as provided in G.S. 153A-148.1 or G.S. 160A-208.1."

(Effective July 1, 2010; SB 1215, s.1.20, S. L. 10-166.)

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. 105-164.44I – 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.(d), S.L. 09-451. Effective July 1, 2011, the reduced distributable percentage amounts are repealed; SB 202, s. 27A.2.(d), S.L. 09-451.)

G.S. 105-164.44I(b) – Distribution of part of sales tax on video programming service and telecommunications service to counties and cities: This subsection was amended and specifies that the amount of supplemental PEG channel support that the Secretary must include in each quarterly distribution to a city or county is “one-fourth of the share of each qualifying PEG channel certified by the city or county under G.S. 105-164.44J. The share of each certified PEG channel is the sum of four million dollars (\$4,000,000) and the amount of any funds returned to the Secretary in the prior

fiscal year under G.S. 105-164.44J(d) divided by the number of PEG channels certified under G.S. 105-164.44J.”

(Effective July 1, 2011; HB 1691, s.11.(b), S. L. 10-158.) Applies to distributions made on or after July 1, 2011, for quarters starting on or after April 1, 2011.

G.S. 105-164.44J(b) – Supplemental PEG channel support: This subsection was amended to indicate that “A county or city may not certify more than three qualifying PEG channels.”

(Effective July 1, 2010; HB 1691, s.11.(c), S. L. 10-158.)

LOCAL SALES AND USE TAX

G.S. 105-466(c) – Levy of Tax: This subdivision is amended to require the collection of a new levy to begin on the first day of a calendar quarter instead of the first day of the month of either January or July. The requirement for the county to give the Secretary at least 90 days advance notice of a new levy or tax rate change was suspended for the 2010 calendar year. For the 2010 calendar year only, the county must give the Secretary at least 75 days advance notice of a new levy or tax rate.

(Effective July 17, 2010; SB 1177, s 12, S.L. 10-95. Effective July 17, 2010; SB 1177, s 44, S.L. 10-95.)

G.S. 105-467(b) – Exemptions and Refunds: This subdivision is amended to reflect the addition of G.S. 105-164.14A and G.S. 105-164.14B.

(Effective July 1, 2010; SB 1215, s 3.8, S.L. 10-166.)

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. 105-502 – (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. 105-522 – 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. 105-523 – 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.) Further amendments to provide a due date for county hold harmless estimate and final calculation (Effective July 17, 2010; SB 1177, s. 14, S.L. 10-95.)

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.)

HIGHWAY USE TAX – ARTICLE 5A

G.S. 105-187.3(b) – Retail Value: This definition is amended to combine “(b) Retail Value” and “(b1) Retail Value of Transferred Department of Defense Vehicles.” There is no substantive change.

(Effective July 17, 2010; SB 1177, s. 5, S.L. 10-95.)

G.S. 105-187.6(a) – Full Exemptions: This subsection is amended by adding a new subdivision for a full exemption of Highway Use Tax as a result of a certificate of title transfer to a revocable trust from an owner who is the sole beneficiary of the trust.

(Effective July 17, 2010; SB 1177, s. 6, S.L. 10-95.)

SCRAP TIRE DISPOSAL TAX –ARTICLE 5B

G.S. 105-187.18(b) – Exemptions: This subdivision is amended to reflect the addition of G.S. 105-164.14A and G.S. 105-164.14B by referencing Article 5 of this Chapter.

(Effective July 1, 2010; SB 1215, s 3.4, S.L. 10-166.)

G.S. 105-187.19(b) – Use of Tax Proceeds: This subsection is temporarily amended to credit taxes levied during the 2010-2011 fiscal year to the General Fund the net tax proceeds that G.S. 105-187.19(b) directs the Secretary of Revenue to credit to the Scrap Tire Disposal Account. This subsection was further amended to clarify that the transfer applies to distributions made by the Secretary during the 2010-2011 fiscal year.

(Effective July 1, 2010; SB 897, s. 2.2.(d), S.L. 10-31. Effective July 1, 2010; SB 1202, s. 1.2.(a), S.L. 10-123.)

WHITE GOODS DISPOSAL TAX –ARTICLE 5C

G.S. 105-187.23 – Exemptions and Refunds: This section is amended to reflect the addition of G.S. 105-164.14A and G.S. 105-164.14B by referencing Article 5 of this Chapter.

(Effective July 1, 2010; SB 1215, s 3.5, S.L. 10-166.)

G.S. 105-187.24 – Use of Tax Proceeds: This subsection is temporarily amended to credit taxes levied during the 2010-2011 fiscal year to the General Fund the net tax proceeds that G.S. 105-187.24 directs the Secretary of Revenue to credit to the White Goods Management Account. This subsection was further amended to clarify that the transfer applies to distributions made by the Secretary during the 2010-2011 fiscal year.

(Effective July 1, 2010; SB 897, s. 2.2.(e), S.L. 10-31. Effective July 1, 2010; SB 1202, s. 1.2.(b), S.L. 10-123.)

DRY-CLEANING SOLVENT TAX – ARTICLE 5D

G.S. 105-187.33 – Exemptions and Refunds: This section is amended to reflect the addition of G.S. 105-164.14A and G.S. 105-164.14B by referencing Article 5 of this Chapter.

(Effective July 1, 2010; SB 1215, s 3.6, S.L. 10-166.)

MANUFACTURING FUEL AND CERTAIN MACHINERY AND EQUIPMENT – ARTICLE 5F

G.S. 105-187.50 – Definitions: This section is amended to delete the definition for eligible datacenter.

(Effective July 1, 2010; SB 1171, s. 5, S.L. 10-91.)

G.S. 105-187.51a.(1) – Tax Imposed on Mill Machinery: This subsection is amended to exclude a production company from qualifying for the 1% privilege tax levied on the purchase of mill machinery or mill machinery parts or accessories. Purchases by motion picture and film production companies will be subject to the general state and local tax rates.

(Effective January 1, 2011; HB 1973, s. 2.3, S.L. 10-147.)

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 section is repealed and purchases of fuel for use in connection with the operation of a manufacturing facility are exempt from tax effective July 1, 2010.

(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; SB 3, s. 12(d), S.L. 07-397.)

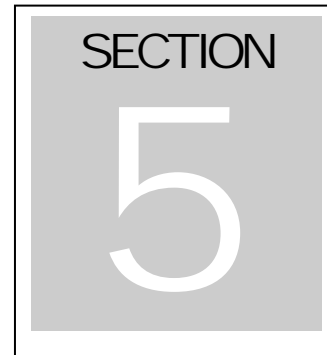
G.S. 105-187.51C – Tax Imposed on Datacenter Machinery and Equipment: This section is amended to add subsection (a1) Requirements that the Secretary of Commerce must certify before the datacenter is eligible. As a result subsection (a) is amended to delete the reference to eligible datacenter as defined in G.S. 105-164.3(8e) and adds reference to subsection (a1). Subsection (a2) is added to reference a second datacenter and sets out the requirements for qualifying for the 1% privilege tax. Subsection (a3) is added to reference contractors and subcontractors of the datacenters as being eligible to purchase machinery and equipment at the 1% privilege tax. Subsection (b) Rate and Scope is amended to state that the tax does not apply to equipment and machinery of an eligible Internet datacenter that is exempt from sales tax under G.S. 105-164.13(55). Subsection (d) is amended to extend the sunset of this section to July 1, 2015.

(Effective July 1, 2010; SB 1171, s. 7, S.L. 10-91.)

G.S. 105-187.51C(a)(1) – Tax Imposed on Datacenter Machinery and Equipment: This subdivision is amended to delete “and software” from the items considered to be machinery and equipment in the datacenter. Software is exempt under G.S. 105-164.13(43a)b. when sold to a person who operates a datacenter and the software is used in the datacenter.

(Effective July 1, 2010; SB 1171, s. 6, S.L. 10-91.)

PROPERTY TAX



PROPERTY TAX

G.S. 105-275(29a) — Historic Property: Technical change which clarifies that all liens arising under this subdivision are extinguished upon the location of an historic structure on the site within the time period allowed under this subdivision.

(Effective July 17, 2010; SB 1177, s. 15, S.L. 2010-95.)

G.S. 105-277.1C(b)(1) — Disabled Veteran Property Tax Homestead Exclusion: Adds a new section which allows a residence owned by a deceased veteran to qualify for the disabled veteran property tax exclusion, if the United States Department of Veterans Affairs or another federal agency has certified that, as of January 1, preceding the taxable year for which the exclusion allowed by this section is claimed, the veteran's death was the result of a service-connected condition. Defines service connected as defined in 38 U.S.C. § 101.

(Effective July 17, 2010; SB 1177, s. 16, S.L. 2010-95.)

G.S. 277.1D — Inventory Property Tax Deferral: Allows the taxes on a residence constructed by a builder and owned by the builder or a business entity of which the builder is a member, as defined in G.S. 105-277.2 to be deferred until a disqualifying event occurs.

(Effective for taxes imposed for taxable years beginning on or after July 1, 2010; HB 1249, s. 1, S.L. 2010-140.)

G.S. 105-278(b) — Historic Property: Technical change which clarifies that no deferred taxes are due and all liens arising under this subdivision are extinguished when the property's historical significance is lost or substantially impaired due to fire or other natural disaster.

(Effective July 17, 2010; SB 1177, s. 17, S.L. 2010-95.)

G.S. 105-278.6(e) — Low or Moderate Income Housing: Technical change which clarifies that all liens arising under this subdivision are extinguished when the property is used for low or moderate income housing within the time period allowed under this subdivision.

(Effective July 17, 2010; SB 1177, s. 18, S.L. 2010-95.)

G.S. 105-330.9 and G.S. 105-330.11 — Motor Vehicles: Amends the effective date of the combined property tax and vehicle registration system provided for by House Bill 1779.

(Effective July 17, 2010; SB 1177, s. 21 and 22, S.L. 2010-95.)

G.S. 105-333(14) — Public Service Company: Amends the definition of public service company by removing the reference to radio common carrier company as defined in G.S. 62-119(3).

(Effective July 17, 2010; SB 1177, s. 19, S.L. 2010-95.)

G.S. 105-333(21) — Motor Freight Carrier Terminal: Adds the following definition for a terminal: A motor freight carrier facility that includes buildings for the handling and temporary storage of freight pending transfer between locations. The term also includes a facility that handles truckloads only and typically consists of a wide, open space where rolling stock is parked and a building for offices and maintenance of rolling stock.

(Effective July 17, 2010; SB 1177, s. 20, S.L. 2010-95.)

G.S. 105-501(b) — Reimbursement to the State for Local Government Services: Changes the method by which the State is reimbursed for costs incurred by the Department of Revenue for performing duties imposed by Article 15 and the costs incurred by the North Carolina Property Tax Commission.

(Effective July 1, 2010; SB 897, s. 26.1(a), S.L. 2010-31.)

G.S. 105A-2 and G.S. 105A-3(c) — Debt Set-Off: Changes the definition of a Debtor from an “individual” to “a person who owes a debt.” Adds the requirement that whenever possible, all claimant agencies shall obtain and provide to the Department of Revenue the full name, social security number or federal identification number, address, and any other identifying information required by the Department of Revenue.

(Effective July 1, 2010; SB 897, s. 31.8(d), 31.8(e), and 31.8(f), S.L. 2010-31.)

G.S. 153A-340, G.S. 153A-357(c)(2) and G.S. 105-360 — Currituck County and Pasquotank County: Provides that Currituck County may prohibit the issuance of a land-use permit or a building permit to a delinquent taxpayer and allows Pasquotank County to set the tax prepayment discount by June 30, 2010.

(Effective June 30, 2010; HB 1953, s. 2, 3, and 4, S.L. 2010-30.)

G.S. 161-31(b) — Payment of Delinquent Property Taxes: Adds Dare and McDowell counties to the list of counties authorized to require the payment of delinquent property taxes before recording deeds conveying property.

(Effective July 1, 2010; HB 1754, s. 1, S.L. 2010-44.)

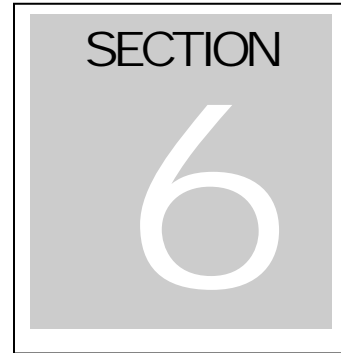
G.S. 161-31 — Payment of Delinquent Property Taxes: Provides that the Duplin County Board of Commissioners may by resolution require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no county or municipal ad valorem taxes are a lien on the property or that no other taxes which have been charged to the collector are a lien on the property. This act only applies to Duplin County.

(Effective June 28, 2010; HB 1673, s. 1, S.L. 2010-24.)

G.S. 153A-18(c) — Orange County and Alamance County Boundary: Enables the transition of properties of the area along the common boundary between Alamance County and Orange County due to the 2008 North Carolina Geodetic Survey.

(Effective July 1, 2010; SB 1362, s. 1, S.L. 2010-61.)

MOTOR FUELS



MOTOR FUELS

G.S. 105-241(b)(2a) – Reporting and Payment Requirement: This statute was amended to require all taxpayers who file returns electronically to also pay any liability from those filed returns electronically.

(Effective July 17, 2010; SB 1177, s. 25, S.L. 10-95.)

G.S. 105-449.37(a)(1) – Update Reference to the IFTA Agreement: This statute was amended update the reference to the International Fuel Tax Agreement.

(Effective July 17, 2010; SB 1177, s. 27, S.L. 10-95.)

G.S. 105-449.39 – Technical: This statute was amended to make the reference to tax returns uniform.

(Effective July 17, 2010; SB 1177, s. 26(a), S.L. 10-95.)

G.S. 105-449.40(a) – Technical: This statute was amended to make the reference to tax returns uniform.

(Effective July 17, 2010; SB 1177, s. 26(b), S.L. 10-95.)

G.S. 105-449.42 – Technical: This statute was amended to make the reference to tax returns uniform.

(Effective July 17, 2010; SB 1177, s. 26(c), S.L. 10-95.)

G.S. 105-449.42A – Technical: This statute was amended to make the reference to tax returns uniform. This statute was further amended to reword subsection (b) for clarity.

(Effective July 17, 2010; SB 1177, s. 26(d), S.L. 10-95.)

G.S. 105-449.44(b) – Technical: This statute was amended to make the reference to tax returns uniform.

(Effective July 17, 2010; SB 1177, s. 26(e), S.L. 10-95.)

G.S. 105-449.45 – Technical: This statute was amended to make the reference to tax returns uniform.

(Effective July 17, 2010; SB 1177, s. 26(f), S.L. 10-95.)

G.S. 105-449.47A – Motor Carrier Registration Requirement: This statute was amended to provide that motor carriers who wish to register with North Carolina as its base state under the IFTA must be incorporated in this State or authorized to transact business in this State.

(Effective July 17, 2010; SB 1177, s. 28, S.L. 10-95.)

G.S. 105-449.105A – Partial Repeal of Undyed Kerosene Refund by Distributors:

This statute was amended to repeal some of the purposes for which a distributor may obtain a monthly refund of the motor fuel tax the distributor paid on undyed kerosene. Specifically, a distributor may no longer sell untaxed, undyed kerosene to retailers with blocked pumps for non-highway purposes. All undyed kerosene sold to a retailer for resale must include the tax. The end-user (person purchasing the fuel for use) would file a Gas-1201 Claim for Refund, Tax-paid Motor Fuel Used for Off-Highway.

(Effective January 1, 2011 and applies to sales of undyed kerosene made by a distributor on or after that date; SB 1177, s. 29, S.L. 10-95.)

G.S. 105-449.105B – Technical: This statute was amended to remove a word created by a redlining error.

(Effective July 17, 2010; SB 1177, s. 30, S.L. 10-95.)

G.S. 105-449.106(b) – Definition of Taxicab: This statute was amended to provide for a definition of taxicab that was substantially the same as the one that existed in G.S. 20-87(1), prior to repeal.

(Effective July 17, 2010; SB 1177, s. 31(a), S.L. 10-95.)

G.S. 105-449.106(c) – Clarification of Refund Eligibility for Special Mobile

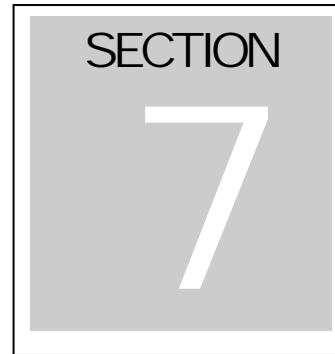
Equipment: This statute was amended to clarify that the quarterly refund of motor fuel tax paid on fuel used to operate special mobile equipment is for the non-highway use of equipment that is registered as SME under Chapter 20.

(Effective October 1, 2010 and applies to motor fuel purchased on or after this date; SB 1177, s. 31(b), S.L. 10-95.)

G.S. 105-449.108(b) – Technical: This statute was amended to require that the applications for refunds must be filed in the form as required by the Secretary.

(Effective July 17, 2010; SB 1177, s. 32, S.L. 10-95.)

GENERAL ADMINISTRATION



GENERAL ADMINISTRATION

G.S. 105-228.90(b)(1b) – Reference to the Internal Revenue Code Updated:

The calculation of North Carolina taxable income begins with federal taxable income as defined under the Internal Revenue Code (“Code”). State law defines the Code as the Code enacted as of a certain date. When our State law’s reference date to the Code is updated each year, that change conforms North Carolina law to federal law that has been enacted as of that date, except for any items for which specific adjustments are required by State law.

This subdivision was amended to update the reference to the Internal Revenue Code from May 1, 2009 to May 1, 2010.

(Effective June 30, 2010; SB 897, s. 31.1.(a); S.L. 10-31.)

This means that State law has adopted all provisions of the following federal acts (except for certain NOL provisions) enacted since May 1, 2009:

- Worker, Homeownership, and Business Assistance Act (signed by the President on November 6, 2009; P.L. 111-92)
- Haiti Assistance Income Tax Incentive Act (signed by the President on January 22, 2010; P.L. 111-126)
- Hiring Incentives to Restore Employment Act [HIRE] (signed by the President on March 18, 2010: P. L. 111-147)
- “Patient Protection and Affordable Care Act” as amended by “Health Care and Education Reconciliation Act of 2010” (signed by the President on March 23, 2010 and March 30, 2010, respectively; P.L. 111-148 and P.L. 111-152)

G.S. 105-236(a)(4) – Failure to Pay Penalty: This subsection was amended and a new subdivision added to set out when the failure to pay penalty may not be imposed. When the Secretary proposes an assessment for tax due but not shown on the return, the

penalty may not be imposed if the taxpayer does not file a request for review but pays the tax within 45 days after the date of the notice.

If the taxpayer files a timely request for review, the failure to pay penalty may not be imposed if the tax is paid within 45 days of any of the following events:

- The date the taxpayer and the Department reach a settlement concerning the amount of tax due,
- 60 days after the date of a final determination and the taxpayer does not timely petition the Office of Administrative Hearings for a contested tax case hearing,
- The date of a final decision after a contested tax case hearing, or
- The date the Office of Administrative Hearings dismisses a petition for lack of jurisdiction because the sole issue is the constitutionality of a statute and not the application of a statute.

When a taxpayer files a combined return pursuant to a request of the Secretary, the penalty may not be imposed if the tax is paid within 45 days of following events:

- The date the return is filed,
- The date of the notice of proposed assessment based on the return, if the taxpayer does not timely file a request for review,
- If the taxpayer files a timely request for review, the date the Departmental review ends as a result of one of the events listed in the previous paragraph.

(Effective June 30, 2010; SB 897, s. 31.10.(a), S.L. 10-31. This section shall not be construed to affect the interpretation of any statute that is the subject of litigation pending as of the effective date of this act in the General Court of Justice or to affect any other aspect of such pending litigation. Subsections (a) and (b) of this section apply to penalties and taxes that are assessed but unpaid as of the effective date, except penalties and taxes that are the subject of pending litigation in a General Court of Justice as of the effective date, and to penalties and taxes assessed on or after the effective date.)

G.S. 105-236(a)(5)(f) – Negligence Penalty and Combined Return: This new subdivision prohibits the imposition of a negligence or large tax deficiency penalty on an amount shown due on a combined return filed pursuant to a request of the Secretary unless at least one of the following conditions apply:

- The return is an amended combined return that includes the same corporations as the initial combined return filed at the request of the Secretary,
- The Secretary has adopted permanent rules that describe the circumstances under which a combined return is required, and the Secretary requires a taxpayer to file a combined return because the taxpayer's circumstances meet those described in the rules,
- Pursuant to a written request from a taxpayer, the Secretary provided written advice to the taxpayer stating that a combined return is required and the Secretary requires the taxpayer to file a combined return because the taxpayer's circumstances meet those described in the written advice.

(Effective June 30, 2010; SB 897, s. 31.10.(b), S.L. 10-31. This section shall not be construed to affect the interpretation of any statute that is the subject of litigation pending as of the effective date of this act in the General Court of Justice or to affect any other aspect of such pending litigation. Subsections (a) and (b) of this section apply to penalties and taxes that are assessed but unpaid as of the effective date, except penalties and taxes that are the subject of pending litigation in a General Court of Justice as of the effective date, and to penalties and taxes assessed on or after the effective date.)

G.S. 105-241.9(c)(2a) – Written Notice Requirements: This new subdivision was added to require the Department to provide information on a notice of proposed assessment that includes the date and amount of the failure to pay penalty that will apply if the proposed assessment is not paid by the date specified. If the proposed assessment is not paid by the specified date, the failure to pay penalty is considered to be assessed and applies to the proposed assessment without further notice to the taxpayer.

(Effective July 17, 2010; SB 1177, s. 8.(a); S.L. 10-95.)

G.S. 105-241.11(b) – Considered Filing Date of Request for Review: This subsection was rewritten to provide that, for a request for review of a proposed assessment or denial of refund that is mailed, the date of filing is determined in accordance with G.S. 105-263 (see change to G.S. 105-263 below). For a request for review that is delivered by another method (other than in person or by mail), the date the request for review is considered filed is the date the Department receives it.

(Effective July 17, 2010; SB 1177, s. 10.(b); S.L. 10-95.)

G.S. 105-241.11(c) – Request for Review of Failure to Pay Penalty: This new subsection was added to provide that a taxpayer who does not request a Departmental review of a proposed assessment may not request a Departmental review of a failure to pay penalty that is based on that assessment. A request for a Departmental review of a proposed assessment is considered a request for a Departmental review of the failure to pay penalty that is based on that assessment.

(Effective July 17, 2010; SB 1177, s. 8.(b); S.L. 10-95.)

G.S. 105-241.16 – Judicial Review of Decision after Contested Case Hearing: This section was clarified to provide that before filing a petition for judicial review, a taxpayer must pay the amount of tax, penalty, and interest the final decision states is due.

(Effective July 17, 2010; SB 1177, s. 9; S.L. 10-95.)

G.S. 105-241.22(1) – Collection of Tax: This subdivision permits the Department to collect a tax when a taxpayer files a return showing an amount due with the return and

does not pay the amount shown due. It was amended to exempt combined returns filed at the request of the Secretary from this provision.

(Effective June 30, 2010; SB 897, s. 31.10.(c), S.L. 10-31.)

G.S. 105-242(b) – Attachment and Garnishment: This subsection was amended to permit the Secretary to submit quarterly to a financial institution information that identifies a taxpayer and the amount of debt owed to the Department. The financial institution will search its records and inform the Secretary if it holds any intangible property that belongs to a taxpayer on the list. The Department must reimburse the financial institution for its cost in providing the information.

(Effective January 1, 2011; SB 897, s. 31.8.(h), S.L. 10-31.)

G.S. 105-242.1 – Garnishment by Electronic Means: This section was amended to permit the Department to send notice to a garnishee by electronic means. The Department and the garnishee must have an agreement that establishes protocol for transmitting the notice and provides an explanation of the liability of the garnishee for tax owed by a taxpayer and an explanation of the garnishee's responsibility concerning the notice. The electronic notice must contain the taxpayer's name, social security number or federal identification number, and the amount of tax, interest and penalties owed by the taxpayer. If the garnishee is a financial institution, it must respond within 20 days. All other garnishees must respond within 30 days after receiving the notice. A notice of garnishment sent to a financial institution is released when the financial institution complies with the notice. For all other garnishees, notice of garnishment is released when the Department sends the garnishee a notice of release that includes the name and identification number of the taxpayer.

(Effective June 30, 2010; SB 897, s. 31.8.(i), S.L. 10-31.)

G.S. 105-256(a)(2a) – Report: This new subdivision was added to adopt a uniform reporting requirement for various corporate and personal income tax economic incentives administered by the Department. By May 1 of each year, the Department will publish an economic incentives report that contains information on tax credits and tax refunds for the previous tax year itemized by credit or refund and taxpayer.

(Effective July 1, 2010; SB 1215, s. 1.21, S.L. 10-166.)

G.S. 105-259(b)(6a) – Conforming Change: This subdivision was amended to correct a statutory reference.

(Effective July 1, 2010; SB 1215, s. 3.7, S.L. 10-166.)

G.S. 105-259(b)(18) – Disclosure: This subdivision was rewritten to delete the reference to specific information permitted to be disclosed to the State Controller, such as name, address and account numbers of a taxpayer, and substituted general

language to permit the Department to furnish any information needed by the Controller to implement the setoff debt collection program established under G.S. 147-86.25, to verify statewide vendor files, or track debtors of the State.

(Effective June 30, 2010; SB 897, s. 31.8.(g), S.L. 10-31.)

G.S. 105-259(b)(31) – Repealed: This subdivision regarding information that can be disclosed relative to the Major Computer Manufacturing Facilities credit was repealed because it is no longer needed.

(Effective July 1, 2010; SB 1215, s. 3.7, S.L. 10-166.)

G.S. 105-259(b)(35) – Repealed: This subdivision regarding information that can be disclosed relative to the Major Computer Manufacturing Facilities credit was repealed because it is no longer needed.

(Effective July 1, 2010; SB 1215, s. 3.7, S.L. 10-166.)

G.S. 105-259(b)(37) – Technical Change: This subdivision was amend to delete a reference to an expired statute in Article 3A.

(Effective July 1, 2010; SB 1215, s. 3.7, S.L. 10-166.)

G.S. 105-259(b)(40) – Disclosure: This new subdivision permits the Department to furnish to a taxpayer who leases renewable energy property and claims a credit under G.S. 105-129.16A information used by the Secretary to adjust the amount of the credit claimed by the taxpayer. (This subdivision may be re-numbered by the codifier to eliminate duplication.)

(Effective for taxable years beginning on or after January 1, 2010; HB 1829, s.2.(c), S.L. 2010-167.)

G.S. 105-259(b)(40) – Disclosure: This new subdivision permits the Department to furnish to a nonparticipating tobacco manufacturer the amount of the manufacturer's tobacco products that a taxpayer sells in this State and that the Secretary reports to the Attorney General. (This subdivision may be re-numbered by the codifier to eliminate duplication.)

(Effective July 17, 2010; SB 1177, s. 11, S.L. 10-95.)

G.S. 105-259(b)(41) – Disclosure: This new subdivision permits the Department to furnish to the Division of Forest Resources contact and financial information concerning companies that are involved in the primary processing of timber products in order for DENR to comply with the Primary Forest Assessment Act.

(Effective July 1, 2010; SB 897, s. 13.15, S.L. 10-31.)

G.S. 105-262 – Rules: This section was amended by adding a new subsection to set out the procedure for notice and public hearing for rules proposed to be adopted under G.S. 105-130.6. At least 30 days prior to proposing a rule, the Secretary must:

- Publish the proposed rule in the North Carolina Register,
- Submit the rule and a notice of public hearing to the Codifier of Rules, who must post the proposed rule and the notice of public hearing on the Internet within five business days,
- Notify those on the Department’s mailing list and any other interested parties of its intent to adopt a rule and of the public hearing,
- Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule, and
- Hold a least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

(Effective June 30, 2010; SB 897, s. 31.10.(f), S.L. 10-31.)

G.S. 105-263(a) – Timely Filing of Mailed Documents and Requests for

Extensions: This new subsection was added to provide that section 7502 of the Code governs when a return, report, payment, or any other document that is mailed to the Department is filed. This section of the Code is known as the “mailbox rule.” Under the mailbox rule, the date the document is considered filed is the United States postmark date stamped on the cover in which such return, report, payment, or other document is mailed. Therefore, a request for review is considered filed when it is mailed, rather than when it is received by the DOR.

(Effective July 17, 2010; SB 1177, s. 10.(a); S.L. 10-95.)

G.S. 105-264(c) – Give Taxpayers Notice of Revised Tax Interpretations: This subsection was amended to provide that an interpretation that revises a prior interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due may not become effective sooner than the following: (1) For a tax that is payable on a monthly or quarterly basis, the first day of a month that is at least 90 days after the date the revised interpretation is issued. (2) For a tax that is payable on an annual basis, the first day of a tax year that begins after the date the revised interpretation is issued.

(Effective June 30, 2010; SB 897, s. 31.7A.(a); S.L. 10-31.)

SETOFF DEBT COLLECTION ACT—Chapter 105A

G.S. 105A-2 Definitions: The definition of “debtor” in G.S. 105A-2(3) was expanded to include all persons who owe a debt. “Person” is defined in G.S. 105-228.90(b)(5). A corresponding change was made to the definition of “refund” in G.S. 105A-2(8). The

definition of “State agency” in G.S. 105A-2(9) was expanded to include a community college.

(Effective June 30, 2010; SB 897, s. 31.8.(d); S.L. 10-31.)

G.S. 105A-3(c) Identifying Information: This subsection was rewritten to require claimant agencies to also obtain the federal identification number, if applicable, of a debtor.

(Effective June 30, 2010; SB 897, s. 31.8.(e); S.L. 10-31.)

G.S. 105A-14(a) Accounting to the Claimant Agency; Credit to Debtor’s Obligation:

This subsection was rewritten to require the Department to also provide the federal identification numbers, if applicable, with the transmittal of the net proceeds collected to a claimant agency.

(Effective June 30, 2010; SB 897, s. 31.8.(f); S.L. 10-31.)