2014 TAX LAW CHANGES

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

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PREFACE

The **2014 Tax Law Changes** is designed for use by the North Carolina Department of Revenue personnel and is available to others as a resource document. It provides a brief summary of legislative tax changes made by prior General Assemblies that take effect for tax year 2014, as well as changes made by the 2014 General Assembly, regardless of effective date. This document includes changes to the tax law only and not other legislation that affect the Department of Revenue.

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

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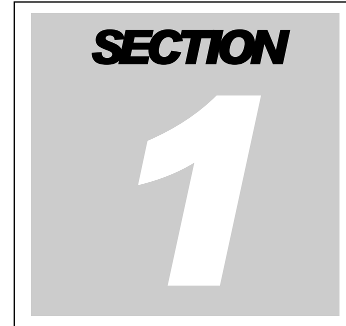
PERSONAL TAXES



INDIVIDUAL INCOME TAX

G.S. 105-133 – Short Title: This section was recodified as G.S. 105-153.1 as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998; s.1.1.(a), S.L. 13-316.)

G.S. 105-134 – Purpose: This section was recodified as G.S. 105-153.2 as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(a), S.L. 13-316.)

G.S. 105-134.1 – Definitions: This section was recodified as G.S. 105-153.3 as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(a), S.L. 13-316.)

G.S. 105-134.1(7a) – Definition of Limited Liability Company: This subdivision was rewritten to make reference to Chapter 57D instead of Chapter 57C. The 2013 General Assembly repealed Chapter 57C effective January 1, 2014.

(Effective January 1, 2014; SB 439, s. 28, S.L. 13-157.)

G.S. 105-134.2 – Individual Income Tax Imposed: This subsection was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws. The individual income tax rate is now imposed under G.S. 105-153.7.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-134.3 – Year of Assessment: This section was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-134.5 – North Carolina Taxable Income Defined: This section was recodified as G.S. 105-153.4 as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(a), S.L. 13-316.)

G.S. 105-134.6 – Modifications to Adjusted Gross Income: This section was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws. This section was replaced with G.S. 105-153.5.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-134.6A – Adjustments When State Decouples from Bonus Depreciation and Section 179 Expensing: This section was repealed and replaced with similar language under G.S. 105-153.6 (see the summary for G.S. 105-153.6).

(Effective for taxable years beginning on or after January 1, 2014; HB 14, s. 58.(b), S.L. 13-414.)

G.S. 105-134.6A(c) – Adjustments When State Decouples from Section 179 Expensing: This subsection was amended to make a technical correction and to reflect the intent of the 2013 General Assembly. The amount of the North Carolina investment limitation which a taxpayer uses to calculate the addition to federal adjusted gross income for Code section 179 expenses for the taxable year 2013 was increased from $125,000 to $200,000.

(Effective for taxable years beginning on or after January 1, 2013; HB 1050, s. 2.1(b), S.L. 14-3.)

G.S. 105-134.6A(f) – Adjustments When State Decouples from Bonus Depreciation – Prior Transactions: This subsection was amended to reflect the intent of the 2013 General Assembly by clarifying that the transferee of an asset, where the tax basis of the transferred asset carried over from the transferor to the transferee for federal income tax purposes, can take the remaining bonus depreciation deduction on its 2013 tax return if the transferred asset has been disposed of by the transferee or has no remaining useful life on the books of the transferee. The language regarding the assets that had been disposed of was not in the original law, and the Department of Revenue had interpreted the original law to mean that the transferee could not take any

remaining bonus depreciation deductions if the asset had been disposed of prior to January 1, 2013. Additional conforming and technical changes were also made.

(Effective for taxable years beginning on or after January 1, 2013; HB 1050, s. 2.1(b), S.L. 14-3.)

G.S. 105-134.6A(g) – Adjustments When State Decouples from Bonus Depreciation – Tax Basis: This subsection was amended to clarify that the adjustment required to account for any difference in the amount of depreciation, amortization, gains or losses applicable to property that has been depreciated or amortized by a different basis or rate for State income tax purposes than used for federal income tax purposes is not limited to differences occurring prior to January 1, 2013.

(Effective for taxable years beginning on or after January 1, 2013; HB 1050, s. 2.1(b), S.L. 14-3.)

G.S. 105-134.6A(h) – Adjustments When State Decouples from Bonus Depreciation – Definitions: This subsection was amended to add "corporation" to the definition of a "transferor."

(Effective for taxable years beginning on or after January 1, 2013; HB 1050, s. 2.1(b), S.L. 14-3.)

G.S. 105-134.7 – Transitional Adjustments: This section was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-134.8 – Inventory: This section was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151 – Tax Credits for Income Taxes Paid to Other States by Individuals: This section was recodified as G.S. 105-153.9 as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(a), S.L. 13-316.)

G.S. 105-151.1 –Credit for Construction of Dwelling Units for Handicapped Persons: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151.11 – Credit for Child Care and Certain Employment-Related Expenses: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151.12 – Credit for Certain Real Property Donations: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151.13 – Credit for Conservation Tillage Equipment: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151.14 – Credit for Gleaned Crop: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151.18 – Credit for the Disabled: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151.20 – Credit or Partial Refund for Tax Paid on Certain Federal Retirement Benefits: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151.21 – Credit for Property Taxes Paid on Farm Machinery: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151.24 – Credit for Children: This section was recodified as G.S. 105-153.10 as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(a), S.L. 13-316.)

G.S. 105-151.25 – Credit for Construction of a Poultry Composting Facility: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-151.26 – Credit for Charitable Contributions by Nonitemizers: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316)

G.S. 105-151.33 – Education Expenses Credit: This credit was repealed as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 269, s. 1, S.L. 13-364.)
(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(b), S.L. 13-316.)

G.S. 105-152 – Income Tax Returns: This section was recodified as G.S. 105-153.8 as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998; s.1.1.(a), S.L. 13-316.)

G.S. 105-153.1 – Short Title: G.S. 105-133 was recodified to this new section as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(a), S.L. 13-316.)

G.S. 105-153.2 – Purpose: G.S. 105-134 was recodified to this new section as part of the changes made to individual income tax to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(a), S.L. 13-316.)

G.S. 105-153.3 – Definitions: G.S. 105-134.1 was recodified to this new section as part of the changes made to individual income tax to reform and simplify the State's tax laws. Definitions were renumbered and the definition for "Retirement benefits" was deleted.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, ss. 1.1(a), 1.1.(c), S.L. 13-316.)

G.S. 105-153.3(12) – North Carolina Taxable Income: There were two changes to this subsection. First, the definition was rewritten to change the reference from G.S. 105-134.5 to G.S. 105-153.5. Second, the definition was rewritten to correct the reference from G.S. 105-153.5 to G.S. 105-153.4.

(First change effective for taxable years beginning on or after January 1, 2014; HB 998, s.1.1.(c), S.L. 13-316.)
(Second change effective for taxable years beginning on or after January 1, 2014; HB 14, s. 58.(c), S.L. 13-414.)

G.S. 105-153.4 – North Carolina Taxable Income Defined: G.S. 105-134.5 was re-codified to this new section as part of the changes made to individual income tax to reform and simplify the State's tax laws. The language was also amended to change the references for modifications to adjusted gross income to G.S. 105-153.5 and G.S. 105-153.6.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, ss. 1.1.(a), 1.3.(c), S.L. 13-316.)

G.S. 105-153.5 – Modifications to Adjusted Gross Income: There were two laws enacted with respect to this section. First, this new section was added to Part 2 of Article 4 of Chapter 105 of the General Statutes. Second, subsection (a) and subdivision (a)(1) were rewritten to clarify that the standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. In addition, subdivision (a)(2) was rewritten to clarify the limitation amounts for married individuals who claim itemized deductions under this subdivision.

Under subsection (a), a taxpayer may deduct from adjusted gross income either the standard deduction amount or the itemized deduction amount as allowed in subdivisions (1) or (2) as shown below.

(1) Standard deduction amount – The standard deduction amount is zero for a person who is not eligible for a standard deduction under Section 63 of the Code. These taxpayers include: married individuals who file a separate return for federal income tax purposes and their spouse itemizes deductions, nonresident aliens, or individuals filing a short-year return because of a change in their accounting period. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	$15,000
Head of Household	$12,000
Single	$ 7,500
Married, filing separately	$ 7,500

(2) Itemized deduction amount – The amounts allowed under (a) and (b) below are not subject to the overall limitation on itemized deductions under section 68 of the Code.

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

(b) The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount claimed by the taxpayer as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. The total amount allowed for qualifying home mortgage interest and property taxes on real estate may not exceed twenty thousand dollars ($20,000). For married individuals, the $20,000 limitation applies to the combined total qualified mortgage interest and real estate property taxes claimed by both spouses, rather than to each spouse separately. For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars ($20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year.

Under subsection (b), the deductions previously allowed under G.S. 105-134.6(b) have been recodified as follows:

New Law	Prior Law
G.S. 105-153.5(b)(1)	G.S. 105-134.6(b)(1)
G.S. 105-153.5(b)(2)	G.S. 105-134.6(b)(2)
G.S. 105-153.5(b)(3)	G.S. 105-134.6(b)(3)
G.S. 105-153.5(b)(4)	G.S. 105-134.6(b)(5)
G.S. 105-153.5(b)(5)	G.S. 105-134.6(b)(5b)
G.S. 105-153.5(b)(6)	G.S. 105-134.6(b)(9)
G.S. 105-153.5(b)(7)	G.S. 105-134.6(b)(10)

(Enactment of this section effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(d), S.L. 13-316.)
(Amendments to this section effective for taxable years beginning on or after January 1, 2014; HB 1050, s. 2.2(a), S.L. 14-3.)

G.S. 105-153.5(b)(5) – ***Bailey* Retirement Deduction:** Besides G.S. 105-134.6(b)(5b) being recodified to this new subdivision, the language was changed to allow a deduction to the extent included in the taxpayer's adjusted gross income for the amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases: a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230., b. Emory v. State, 98 CVS 0738., or c. Patton v. State, 95 CVS 04346. The reference to amounts deducted under subdivision (6) in G.S. 105-134.6(b)(5b) was removed. There is no longer a retirement deduction for retirement benefits included in adjusted gross income that do not qualify for the *Bailey* retirement deduction.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(d), S.L. 13-316.)

G.S. 105-153.5(b)(8) – **Bonus Depreciation and Section 179 Expense Deduction:** A new deduction was added for the amount allowed as a deduction under G.S. 105-153.6 as a result of an addition for federal bonus depreciation and Code section 179 expensing.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(d), S.L. 13-316.)

G.S. 105-153.5(b)(9) – Eugenics Sterilization Payments: This new subdivision allows a deduction for the amount paid to the taxpayer during calendar year 2015 from the Eugenics Sterilization Compensation Fund as compensation to a qualified recipient under the Eugenics Asexualization and Sterilization Compensation Program under Part 30 of Article 9 of Chapter 143B of the General Statutes. This subdivision expires for taxable years beginning on or after January 1, 2016. Therefore, payments received in calendar year 2014 or calendar years after 2015 will not qualify for the deduction.

(Effective for taxable years beginning on or after January 1, 2015; SB 402, s. 6.18.(b), S.L. 13-360)

G.S. 105-153.5(c) - Additions: - The additions previously required under G.S. 105-134.6(c) have been recodified as follows:

New Law	Prior Law
G.S. 105-153.5(c)(1)	G.S. 105-134.6(c)(1)
G.S. 105-153.5(c)(2)	G.S. 105-134.6(c)(3a)
G.S. 105-153.5(c)(3)	G.S. 105-134.6(c)(6)
G.S. 105-153.5(c)(4)	G.S. 105-134.6(c)(10)

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(d), S.L. 13-316.)

G.S. 105-153.5(c)(5) – **Bonus Depreciation and Section 179 Expense Addition:** A new addition was added for the amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(d), S.L. 13-316.)

G.S. 105-153.5(d) – **S Corporations:** The adjustments previously required under G.S. 105-134.6(a), were recodified and the language was modified. This subsection provides that each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in this section and in G.S. 105-153.6.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(d), S.L. 13-316.)

G.S. 105-153.6 – Adjustments When State Decouples from Bonus Depreciation and Section 179 Expensing: There were three laws enacted with respect to this section. First, this section, including subsections (a), (b), (c), and (d), was added to Part 2 of Article 4 of Chapter 105. This section was added to provide additions and deductions to federal taxable income or adjusted gross income, as appropriate, when the State decouples from federal accelerated depreciation and section 179 expensing. This section was subsequently amended in two other laws.

The first amendment added new subsections (e), (f), (g), and (h), which provide a potential adjustment to an asset's basis when there is an actual or deemed transfer of assets. It also rewrote subsection (d) to clarify that the adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes, except as modified in subsection (e) of this section.

The second amendment rewrote subsection (c) to make a technical correction and to reflect the intent of the 2013 General Assembly. The amount of the North Carolina investment limitation which a taxpayer uses to calculate the addition to federal adjusted gross income for Code 179 expenses for the taxable year 2013 was increased from $125,000 to $200,000. Subsection (f) was amended to reflect the intent of the 2013 General Assembly by clarifying that the transferee of an asset, where the tax basis of the transferred asset carried over from the transferor to the transferee for federal income tax purposes, can take the remaining bonus depreciation deduction on its 2013 tax return if the transferred asset has been disposed of by the transferee or has no remaining useful life on the books of the transferee. The language regarding the assets that had been disposed of was not in the original law, and the Department of Revenue had interpreted the original law to mean that the transferee could not take any remaining bonus depreciation deductions if the asset had been disposed of prior to January 1, 2013. Additional conforming and technical changes were also made. Subsection (g) was amended to clarify that the adjustment required to account for any difference in the amount of depreciation, amortization, gains or losses applicable to property that has been depreciated or amortized by a different basis or rate for State income tax purposes than used for federal income tax purposes is not limited to

differences occurring prior to January 1, 2013. Subsection (h) was amended to add "corporation" to the definition of a "transferor."

Subsection (a) was added to require a taxpayer to add to federal taxable income or adjusted gross income, as appropriate, 85% of the amount of bonus depreciation taken for federal income tax purposes under section 168(k) or 168(n) of the Code. Subsection (a) also provides a deduction from federal taxable income or adjusted gross income, as appropriate, for the 85% bonus depreciation required to be added to federal taxable income or adjusted gross income, as appropriate. A taxpayer may deduct twenty percent (20%) of the total amount of the bonus depreciation added to federal taxable income or adjusted gross income, as appropriate, in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Subsection (b) was added to provide a depreciation exception for a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code. In this situation, the taxpayer must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

Subsection (c) was added to require a taxpayer to add to federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for the taxable year. However, for purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	Dollar Limitation	Investment Limitation
2010	$250,000	$800,000
2011	$250,000	$800,000
2012	$250,000	$800,000
2013	$ 25,000	$200,000

Subsection (d) provides that the adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes. In addition, Subsection (d) was amended to clarify that with the exception of subsection (e), the adjustments made for bonus depreciation and the expense deduction under section 179 of the Code, do not result in a difference in basis of the affected assets for State and federal income tax purposes.

Subsection (e) was added to require a taxpayer to make an asset basis adjustment when there is an actual or deemed transfer of an asset occurring on or after January 1, 2013, where the tax basis of the transferred asset carries over from the transferor to the transferee for federal income tax purposes. To make an asset basis adjustment, the transferee must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and depreciate the adjusted basis over any remaining life of the asset. **The amount of the basis adjustment is limited to the total remaining future bonus depreciation deductions forfeited by the transferor or owner in a transferor at the time of the transfer.** The transferee may elect the depreciation method used to deduct the additional basis (e.g. MACRS or straight-line), but the depreciation method must be consistent throughout the remaining life of the asset. In addition, notwithstanding the provisions of subsection (a) of this section, the transferor and any owner in a transferor are not allowed any remaining future bonus depreciation deductions associated with the transferred asset. This subsection applies only to the extent that each transferor or owner in a transferor that added bonus depreciation to its federal taxable income or adjusted gross income, as appropriate, associated with the transferred asset certifies in writing to the transferee, that the transferor or owner in a transferor will not take any remaining future bonus depreciation deduction associated with the transferred asset.

A taxpayer that acquires an asset that meets the statutory provisions of this subsection but the asset has no remaining life (because the asset has been fully depreciated for federal income tax purposes) must add any remaining deductions allowed under subsection (a) of this section to the basis of the transferred asset and may deduct the entire amount of depreciation added to the basis of the transferred asset in the year the transfer is made.

Subsection (f) was added to provide a taxpayer with an asset basis adjustment allowed under subsection (e) for transfers occurring prior to January 1, 2013 and meeting the conditions of this subsection. The transferor and transferee can make an election to make an asset basis adjustment on the transferee's 2013 return if all of the following conditions are met: (1) the transferor or any owner in a transferor have not taken the bonus depreciation deduction allowed under subsection (a) on a prior return and (2) each transferor or owner in a transferor certifies in writing to the transferee that the transferor or owner in a transferor will not take any remaining deductions allowed under subsection (a) of this section for tax years beginning on or after January 1, 2013, for depreciation associated with the transferred asset. The transferee may elect the depreciation method used to deduct the additional basis (e.g. MACRS or straight-line), but the depreciation method must be consistent throughout the life of the asset. The amount of the basis adjustment under this subsection is limited to the total remaining future bonus depreciation deductions forfeited by the transferor and any owner in the transferor at the time of the transfer.

If the asset has been disposed of by the transferee prior to January 1, 2013 or has no remaining useful life on the books of the transferee, the basis adjustment will be completely recovered on the transferee’s 2013 tax return.

Subsection (g) provides that for transactions described in subsection (e) or (f) of this section, adjusted gross income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property that has been depreciated or amortized because a different basis or rate was used for State income tax purposes than was used for federal income tax purposes.

Subsection (h) provides that a "transferor" is an individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a partner, shareholder, member, or beneficiary subject to tax under Part 2 or Part 3 of Article 4 of this Chapter, of a “transferor."

(Enactment of this statute effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(d), S.L. 13-316.)
(First change effective for taxable years beginning on or after January 1, 2014; HB 14, s. 58.(a), S.L. 13-414.)
(Second change effective for taxable years beginning on or after January 1, 2014; HB 1050, s. 2.1(c), S.L. 14-3.)

G.S. 105-153.7 – Individual Income Tax Imposed: This new section was created to impose a tax for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. The tax rate for the taxable year 2014 is five and eight-tenths percent (5.8%). This new section also provides that the Secretary may provide withholding tables to compute the amount of tax due. The tax rate for taxable years beginning on or after January 1, 2015 is five and seventy-five hundredths percent (5.75%).

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.1.(d), S.L. 13-316.)
(Effective for taxable years beginning on or after January 1, 2015; HB 998, s. 1.2.(a), S.L. 13-316.)

G.S. 105-153.8 –Income Tax Returns: G.S. 105-152 was recodified to this new section. The language in this new section was then amended to impose the requirement to file an income tax return and addresses information the Secretary may require with or subsequent to the filing of an income tax return.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, ss. 1.1(a), 1.3.(d), S.L. 13-316.)

G.S. 105-153.9 –Tax Credits for Income Taxes Paid to Other States by Individuals: G.S. 105-151 was recodified to this new section as part of the changes made to individual income tax to reform and simplify the State’s tax laws. The language in this new section changes references for modifications to adjusted gross income to G.S. 105-153.5 and G.S. 105-153.6.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, ss. 1.1(a), 1.3.(d), S.L. 13-316.)

G.S. 105-153.10 – Credit for Children: G.S. 105-151.24 was recodified to this new section as part of the changes made to individual income tax to reform and simplify the State's tax laws. Subsection (a) was amended to increase the maximum amount of credit per qualifying child to $125. The amount of the credit is either $125, $100, or $0 per child depending on the taxpayer's filing status and adjusted gross income.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, ss. 1.1(a), 1.1.(e), S.L. 13-316.)

G.S. 105-154(d) – Payment of Tax on Behalf of Nonresident Owner or Partner: This subsection was amended to change the reference to the tax rate from G.S. 105-134.2(a)(3) to G.S. 105-153.7.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.3.(e), S.L. 13-316.)

Other Tax Credits No Longer Available as of January 1, 2014 – The following tax credits in Part 2 of Article 4 applicable to individual income taxpayers were scheduled to sunset as of January 1, 2014 and were not extended.

G.S. 105-151.22 – Credit for North Carolina State Ports Authority Wharfage, Handling, and Throughput Charges: Repealed effective for taxable years beginning on or after January 1, 2014.

G.S. 105-151.28 – Credit for Premiums Paid on Long-Term Care Insurance: Repealed for taxable years beginning on or after January 1, 2014.

G.S. 105-151.30 – Credit for Recycling Oyster Shells: Repealed for taxable years beginning on or after January 1, 2014.

G.S. 105-151.31 – Earned Income Tax Credit: Repealed for taxable years beginning on or after January 1, 2014.

G.S. 105-151.32 – Credit for Adoption Expenses: Repealed for taxable years beginning on or after January 1, 2014.

G.S. 105-163.010 - G.S. 163.015 – Tax Credits for Qualified Business Investments: Repealed for investments made on or after January 1, 2014.

INCOME TAX – ESTATES, TRUSTS, AND BENEFICIARIES

G. S. 105-160.2 – Imposition of Tax: This section was rewritten to change the references to adjustments to federal taxable income from G.S. 105-134.6 and G.S. 105-134.6A to G.S. 105-153.5 and G.S. 105-153.6. In addition, the reference to the individual income tax rates was changed from G.S. 105-134.2(a)(3) to G.S. 105-153.7.

(Effective for taxable years beginning on or after January 1, 2014; HB 1050, s. 2.3(a), S.L. 14-3.)

G. S. 105-160.3(b) – Credits Not Allowed to an Estate or Trust: This subsection was rewritten to clarify that the tax credits allowed to individuals under G.S. 105-153.9 (tax credit for income taxes paid to other states by individuals) and G.S. 105-153.10 (credit for children) may not be claimed by an estate or trust. All other tax credits formerly listed under this subsection have been removed because they are no longer available for tax years beginning on or after January 1, 2014.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.3.(f), S.L. 13-316.)

G. S. 105-160.3(b)(11) – Education Expenses Credit: This subdivision was repealed as part of the changes made to reform and simplify the State's tax laws.

(Effective for taxable years beginning on or after January 1, 2014; HB 269, s. 3, S.L. 13-364.)

WITHHOLDING TAX

G.S. 105-163.1(3) – Definition of Dependent: This definition is repealed.

(Effective for taxable years beginning on or after January 1, 2014; HB 1050, s. 14.4(a), S.L. 14-3.)

G. S. 105-163.1(8) – Definition of Nonresident Entity: Subparagraph (a) of this subdivision includes a foreign limited liability company in the definition of nonresident entity. The subparagraph was rewritten to make reference to Chapter 57D instead of Chapter 57C and to specifically reference G.S. 57D-1-03 instead of G.S. 57C-1-03 with respect to the definition of a foreign limited liability company. Chapter 57C was repealed effective January 1, 2014 by section 1 of S.L. 13-157.

(Effective January 1, 2014; SB 439, s. 29, S.L. 13-157)

G.S. 105-163.2 – Employers Must Withhold Taxes: This section was amended to clarify the calculation of an employee's anticipated income tax liability. As rewritten, the employer must allow for the additions that the employee is required to make under

Article 4 of Chapter 105 in addition to the deductions and credits to which the employee is entitled. The statute was also rewritten to replace references made to "exemptions" with the term "allowances."

(Effective for taxable years beginning on or after January 1, 2014; HB 1050, s. 14.5(a), S.L. 14-3.)

G.S. 105-163.2A(c) – Pension Payers Must Withhold Taxes: This subsection was amended to change the default method of calculating the amount of tax to withhold if the recipient does not file an allowance certificate. The default was changed from married with three exemptions to single with no allowances.

(Effective January 1, 2015, and applies to payments made on or after that date; HB 1050, s. 14.6(a), S.L. 14-3.)

G. S. 105-163.2B – North Carolina State Lottery Commission Must Withhold Taxes: This section was amended to change the required percentage of taxes that must be deducted and withheld from the payment of winnings from seven percent (7%) to the individual income tax flat rate percentage in G.S. 105-153.7.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s. 1.3.(g), S.L. 13-316.)

G.S. 105-163.5 – Employee Withholding Allowances; Certificates: This section was rewritten to clarify that an employee that receives wages is entitled to the withholding allowances that would result in the employer withholding an amount that approximates the employee's income tax liability under Article 4 of Chapter 105. Conforming changes were made to replace the phrase "exemption certificate" with "allowance certificate" and the term "exemptions" with "allowances." If the employee fails to file the allowance certificate, the employer must compute the amount to be withheld from the employee's wages as if the employee were a single individual with no allowances.

(Effective for taxable years beginning on or after January 1, 2014; HB 1050, s. 14.5(b), S.L. 14-3.)

G.S. 105-163.22 – Reciprocity: This section was rewritten to make clarifying changes and replace the reference to G.S. 105-151 with G.S. 105-153.9.

(Effective May 29, 2014; HB 1050, s. 14.28, S.L. 14-3.)

S CORPORATION INCOME TAX

G.S. 105-131.2(a) – S Corporation Income Tax Adjustments: This subsection was rewritten to replace the reference for adjustments from "G.S. 105-134.6" to "G.S. 105-153.5 and G.S. 105-153.6." Each shareholder's pro rata share of an S Corporation's

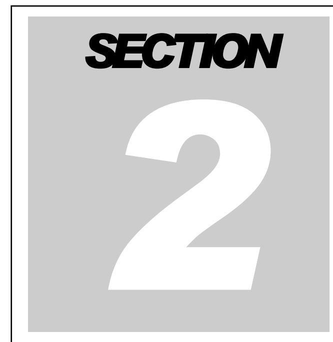
income is subject to the adjustments provided in G.S. 105-153.5 and G.S. 105.153.6. This change was needed because G.S. 105-134.6 was repealed.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s.1.3.(a), S.L. 13-316.)

G.S. 105-131.7(c) – Rate Change for Income Tax Paid on S Corporation Return: This subsection was rewritten to replace the phrase "rates levied in G.S. 105-134.2(a)(3)" with "rate levied in G.S. 105-153.7." This change was needed because G.S. 105-134.2(a)(3) was repealed.

(Effective for taxable years beginning on or after January 1, 2014; HB 998, s.1.3.(b), S.L. 13-316.)

CORPORATE TAX



FRANCHISE TAX

G.S. 105-114.1(a)(4) – Definition of Governing Law: This subdivision was rewritten to make reference to Chapter 57D instead of Chapter 57C. The 2013 General Assembly repealed Chapter 57C effective January 1, 2014.

(Effective January 1, 2014, SB 439, s. 25, S.L. 13-157.)

G.S. 105-114.1(b)(4) – Technical Correction; Definition of Income Year: This subdivision was rewritten to correct a cross reference to G.S. 105-130.2(10) instead of G.S. 105-130.2(4b). The 2012 General Assembly renumbered G.S. 105-130.2(4b) to G.S. 105-130.2(10) effective June 26, 2012.

(Effective May 29, 2014, HB 1050, ss. 14.1, 14.26, S.L. 14-3.)

G.S. 105-116 – Electric Power, Water, and Sewerage Companies Franchise Tax Repealed: This statute was repealed. The tax on electric power was repealed effective July 1, 2014, and was replaced with a new sales and use tax on electric power. In addition, effective July 1, 2014, the franchise tax on water and sewerage companies was eliminated.

(Effective July 1, 2014, HB 998, s. 4.1(a), S.L. 13-316.)

G.S. 105-116.1 – Electric Power City Distribution Repealed: Effective July 1, 2014, this section of the law was repealed because the franchise tax on gross receipts from electricity, set out in G.S. 105-116, was repealed and replaced with a new sales and use tax on electricity. Since the franchise tax on electric power companies was repealed, there are no electric power gross receipts to distribute under the franchise tax. The cities' share of the tax on electricity is preserved by the new distribution to be made under G.S. 105-164.44K.

(Effective July 1, 2014, HB 998, s. 4.1(a), S.L. 13-316.)

G.S. 105-122.1 – Credit for Additional Annual Report Fees Paid by LLC: This section was rewritten to make reference to G.S. 57D-1-22 instead of G.S. 57C-1-22(a). G.S. 57C-1-22(a) sets out the fees collected by the Secretary of State's office when a

limited liability company files certain documents with their office. Effective January 1, 2014, G.S. 57C-1-22(a) was repealed and replaced with new G.S. 57D-1-22.

(Effective January 1, 2014, SB 439, s. 26, S.L. 13-157.)

BUSINESS AND ENERGY TAX CREDITS

G.S. 105-129.16D(b) – Extend Sunset for Credit for Constructing Renewable Fuel Facilities: This subsection was amended to extend the sunset date for the credit for constructing renewable fuel facilities to January 1, 2017 but only in the case of a taxpayer that meets ***both*** of the following conditions:

(1) Signs a letter of commitment with the Department of Commerce on or before September 1, 2013, stating taxpayer's intent to construct and place into service in this State a commercial facility for processing renewable fuel.

(2) Begins construction of the facility on or before December 31, 2013.

For all other taxpayers, the credit for constructing renewable fuel facilities expired for facilities placed in service on or after January 1, 2014.

(Effective July 29, 2013, HB 112, s. 11.3(a), S.L. 13-363.)

TAX INCENTIVES FOR RECYCLING FACILITIES

G.S. 105-129.26(a) – Technical Correction; Major Recycling Facility Credit: This subsection was rewritten to replace two outdated references with respect to qualifying for the major recycling facility tax credit. First, it replaces the term “enterprise tier one area” with the term “development tier one area.” The term “enterprise tier one area” was part of the Article 3A credits, which expired in 2007. The new equivalent term, “a development tier one area,” originated with the enactment of Article 3J.

Second, it deletes the wage standard requirement to be consistent with the law as it applies to a tier one area. In 2002, the General Assembly eliminated the wage standard for enterprise tier one and tier two areas. This conforming change reflects the fact that the wage standard is no longer a requirement in a tier one area.

(Effective May 29, 2014, HB 1050, s. 14.2, S.L. 14-3.)

RESEARCH AND DEVELOPMENT

Title Change: The title of Article 3F, Technology Development, was rewritten to read "Research and Development" because the credit for interactive digital media was repealed effective January 1, 2014,

(Effective January 1, 2014, HB 998, s. 2.3(a), S.L. 13-316.)

G.S. 105-129.50(4a) – Definition of Participating Community College: This subdivision was deleted because the interactive digital media tax credit was repealed effective January 1, 2014.

(Effective January 1, 2014, HB 998, s. 2.3(b), S.L. 13-316.)

G.S. 105-129.51(b) – Article 3F, "Research and Development," Sunset: This subsection was amended to extend the sunset of Article 3F. As amended, Article 3F expires for taxable years beginning on or after January 1, 2016.

(Effective January 1, 2014, HB 998, s. 2.3(c), S.L. 13-316.)

G.S. 105-129.54(1) – Report: This subdivision was amended to delete the reporting requirement related to the interactive digital media tax credit because the interactive digital media credit was repealed effective January 1, 2014.

(Effective January 1, 2014, HB 998, s. 2.3(d), S.L. 13-316.)

G.S. 105-129.56 – Sunset for Interactive Digital Media Tax Credit: The interactive digital media tax credit was repealed for taxable years beginning on or after January 1, 2014.

(Effective January 1, 2014, HB 998, s. 2.3(b), S.L. 13-316.)

CORPORATION INCOME TAX

G.S. 105-130.2(11) – Definition of Limited Liability Company: This subdivision was rewritten to make reference to Chapter 57D instead of Chapter 57C. The 2013 General Assembly repealed Chapter 57C effective January 1, 2014.

(Effective January 1, 2014, SB 439, s. 27, S.L. 13-157)

G.S. 105-130.3 and G.S. 105-130.3A – Corporation Income Tax Rate Reduction: The 2013 General Assembly made substantial changes to the State's income tax structure. In general, the Tax Simplification and Reduction Act broadened the State's income tax base and reduced income tax rates. As part of this legislation, G.S. 105-130.3 was amended to reduce the corporate income tax rate from 6.9% to 6% for tax

years beginning on or after January 1, 2014, and 5% for tax years beginning on or after January 1, 2015.

In addition, the 2013 General Assembly added new G.S. 105-130.3C to provide a rate reduction trigger if the State meets certain revenue targets. For taxable year 2016, if the State's general fund tax revenue for fiscal year ended 2015 equals or exceeds 20.2 billion dollars, the corporate income tax rate will decrease by one percent (1%) to a new tax rate of 4%. For taxable year 2017, if general fund tax revenue for fiscal year end 2016 equals or exceeds 20.975 billion dollars, the corporate income tax rate will decrease by an additional one percent (1%) to a new tax rate of 3%.

Note. If the State's rate reduction target is met in only one fiscal year, then the corporate income tax rate will be decreased by one percent (1%) to equal a tax rate of 4%. If the State's rate reduction targets are not met in either fiscal year, then the corporate income tax rate will remain at 5%.

(The corporate income tax rate reduction for taxable years 2014 and 2015 was effective January 1, 2014, HB 998, s. 2.1(a), S.L. 13-316; the rate reduction triggers were effective July 23, 2013, HB 998, s. 2.2(b), S.L. 13-316.)

G.S. 105-130.3C – Corporation Income Tax Rate Reduction Trigger: The 2014 General Assembly amended G.S. 105-130.3C to provide clarity to the meaning of the term "net general fund tax collected." As originally enacted, the amount of "net general fund tax collected" for a fiscal year was defined as the amount reported by the state controller in the state's comprehensive annual financial report. As rewritten, the amount of "net general fund tax collected" for a fiscal year is the amount of net revenue as reported by the Department of Revenue's June statement of collection as "total general fund revenue" for the 12-month period that ended the previous June 30 modified as follows:

1) Less any large one-time, nonrecurring revenue as reported to the Fiscal Research Division of the General Assembly by the Department and verified by the Fiscal Research Division of the General Assembly.

2) Adjusted by any changes in net collections resulting from the suspension or termination of transfers out of General Fund tax collections.

(Effective August 7, 2014, SB 744, s. 37.1(a), S.L. 14-100.)

G.S. 105-130.5(b)(4) – Net Economic Loss Deduction: This subdivision was amended to insert an inadvertently omitted word into the statute. Specifically, G.S. 105-130.5(b)(4) was amended to add the word "apportionable" after the word "allocable." This change was made to clarify the fact that a net economic loss deduction is subject to the allocation and apportionment provisions of G.S. 105-130.4.

(Effective May 29, 2014, HB 1050, s. 14.3, S.L. 14-3)

G.S. 105-130.5(b)(4) – Net Economic Loss Deduction: This subdivision was amended to provide a transitional deduction from the State's net economic loss deduction under the provisions of G.S. 105-130.8 to a State net loss deduction under the provisions of new G.S. 105-130.8A .

Currently, a corporation is allowed to deduct from federal taxable income a net economic loss deduction equal to the amount by which allowable deductions for the year other than prior year losses exceed income from all sources in the year, including nontaxable income. The net economic loss deduction may be carried forward 15 years; any loss carryforward must first be offset by nontaxable income, including allowable deductions.

Effective for taxable years beginning on or after January 1, 2015, a corporation is allowed to deduct from federal taxable income any unused portion of a net economic loss, as determined on the last day of the 2014 taxable year, under the provisions of new G.S. 105-130.8A. Under G.S. 105-130.8A, the amount of the net economic loss, as determined on December 31, 2014, becomes a static amount. Any unused portion of a net economic loss carried forward to taxable years beginning on or after January 1, 2015, will not have to be first offset by nontaxable income. Because a net economic loss can only be carried forward for 15 years, the deduction allowed under G.S. 105-130.5(b)(4) expires for taxable years beginning on or after January 1, 2030.

(Effective for taxable years beginning on or after January 1, 2015, HB 1050, s. 1.1(a), S.L. 14-3)

G.S. 105-130.5(b)(4a) – New Net Loss Deduction Provision: This subdivision was added to provide a deduction from federal taxable income for a taxpayer's State net loss as calculated under the provisions of G.S. 105-130.8A.

(Effective for taxable years beginning on or after January 1, 2015, HB 1050, s. 1.1(a), S.L. 14-3.)

G.S. 105-130.5B(c) – Adjustments When State Decouples from Section 179 Expensing: This subsection was amended to make a technical correction and to reflect the intent of the 2013 General Assembly. The amount of the North Carolina investment limitation which a taxpayer uses to calculate the addition to federal adjusted gross income for Code section 179 expenses for the taxable year 2013 was increased from $125,000 to $200,000.

(Effective for taxable years beginning on or after January 1, 2013, HB 1050, s. 2.1(a), S.L. 14-3.)

G.S. 105-130.5B(f) – Adjustments When State Decouples From Bonus Depreciation – Prior Transactions: This subsection was amended to reflect the intent of the 2013 General Assembly by clarifying that the transferee of an asset, where the tax basis of the transferred asset carried over from the transferor to the transferee for federal income tax purposes, can take the remaining bonus depreciation deduction on

its 2013 tax return if the transferred asset has been disposed of by the transferee or has no remaining useful life on the books of the transferee. The language regarding the assets that had been disposed of was not in the original law, and the Department of Revenue had interpreted the original law to mean that the transferee could not take any remaining bonus depreciation deductions if the asset had been disposed of prior to January 1, 2013. Additional conforming and technical changes were also made.

(Effective for taxable years beginning on or after January 1, 2013, HB 1050, s. 2.1(a), S.L. 14-3.)

G.S. 105-130.5B(g) – Adjustments When State Decouples From Bonus Depreciation – Tax Basis: This subsection was added to require a taxpayer to adjust federal taxable income to account for any difference in the amount of depreciation, amortization, gains or losses applicable to property that has been depreciated or amortized by a different basis or rate for State income tax purposes than was used for federal income tax purposes.

(Effective for taxable years beginning on or after January 1, 2013, HB 1050, s. 2.1(a), S.L. 14-3.)

G.S. 105-130.6A(a)(4) – Definitions: This subdivision was rewritten to define an "electric power holding company" as "a holding company with an affiliate or a subsidiary that is *engaged in the business of producing electric power"*. The italicized language replaces a reference to G.S. 105-116 that was repealed by S.L. 13-316.

(Effective July 1, 2014, HB 998, s. 4.1(b), S.L. 13-316.)

G.S. 105-130.8 – Net Economic Loss: This section, which provided the provisions for which a net economic loss was calculated, was repealed.

(Effective for taxable years beginning on or after January 1, 2015, HB 1050, s. 1.1(b), S.L. 14-3.)

G.S. 105-130.8A – Net Loss Provisions: This new section was added to replace the State's net economic loss calculation with a State net loss calculation that is more comparable to the federal net operating loss calculation.

Subsection (a) defines a "State net loss" as the amount by which allowable deductions for the year, other than prior year losses, exceed gross income under the Internal Revenue Code for the year adjusted as provided in G.S. 105-130.5. Adjustments under G.S. 105-130.5 include items that increase or decrease a taxpayer's federal taxable income, such as, the add back of taxes based on net income, the deduction for U.S. obligation interest, and adjustments made when the State decouples from federal accelerated depreciation and expensing. Additionally, if the taxpayer is a multi-state corporation with business activity within and without North Carolina, the State net loss must be allocated and apportioned in the year of the loss in accordance with the provisions of G.S. 105-130.4.

Subsection (b) governs when a taxpayer can carryforward a State net loss incurred in a prior taxable year and deduct it in the current taxable year, limited to the following:

1) The loss must be incurred in one of the preceding 15 taxable years.
2) Any loss carried forward must be applied to the next succeeding taxable year before any portion of the State net loss can be carried forward and applied to a subsequent taxable year.

Subsection (c) requires the Department to apply federal regulations adopted under the Code in determining the extent to which a loss survives a merger or acquisition. As specifically stated in G.S. 105-130.8A, the Secretary must apply the standards contained in regulations adopted under sections 381 and 382 of the Code in the determination of a loss surviving a merger or an acquisition. Note. The repeal of G.S. 105-130.8 removes the applicability of North Carolina case law that governed the extent to which a net economic loss survives in a merger or an acquisition.

Subsection (d) sets out the information a taxpayer must provide to the Secretary in order to substantiate the amount of State net loss it deducts during the taxable year. Specifically, a taxpayer must maintain and make available for inspection all records necessary to determine and verify the amount of State net loss deduction. In addition, the Secretary or the taxpayer may redetermine an item of income or loss originating in a closed year for the purpose of determining the correct amount of a State net loss carried forward to a year that is open.

Subsection (e) provides that for taxable years beginning before January 1, 2015, a taxpayer is allowed a net economic loss as calculated under the provisions of G. S. 105-130.8. For tax years beginning before January 1, 2015, the Secretary and the taxpayer must use G.S. 105-130.8 to determine the amount of net economic loss incurred and carried forward to tax years beginning on or after January 1, 2015. Beginning January 1, 2015, the net economic loss becomes a static amount. As of January 1, 2015, any unused portion of a net economic loss carried forward will not have to be first offset by nontaxable income. Because a net economic loss can only be carried forward for 15 years, subsection (e) expires for taxable years beginning on or after January 1, 2030.

(Effective for taxable years beginning on or after January 1, 2015, HB 1050, s. 1.1(c), S.L. 14-3.)

G.S. 105-130.22 – Credit for Construction of Dwelling Units for Handicapped Persons Repealed: This credit was repealed as part of the changes made to corporate income tax to reform and simplify the State's tax laws.

(Effective January 1, 2014, HB 998, s. 2.1(b), S.L. 13-316.)

G.S. 105-130.34 – Credit for Certain Real Property Donations Repealed: This credit was repealed as part of the changes made to corporate income tax to reform and simplify the State's tax laws.

(Effective January 1, 2014, HB 998, s. 2.1(b), S.L. 13-316.)

G.S. 105-130.36 – Credit for Conservation Tillage Equipment Repealed: This credit was repealed as part of the changes made to corporate income tax to reform and simplify the State's tax laws.

(Effective January 1, 2014, HB 998, s. 2.1(b), S.L. 13-316.)

G.S. 105-130.37 – Credit for Gleaned Crop Repealed: This credit was repealed as part of the changes made to corporate income tax to reform and simplify the State's tax laws.

(Effective January 1, 2014, HB 998, s. 2.1(b), S.L. 13-316.)

G.S. 105-130.39 – Credit for Certain Telephone Subscriber Line Charges Repealed: This credit was repealed as part of the changes made to corporate income tax to reform and simplify the State's tax laws.

(Effective January 1, 2014, HB 998, s. 2.1(b), S.L. 13-316.)

G.S. 105-130.43 – Credit for Savings and Loan Supervisory Fees Repealed: This credit was repealed as part of the changes made to corporate income tax to reform and simplify the State's tax laws.

(Effective January 1, 2014, HB 998, s. 2.1(b), S.L. 13-316.)

G.S. 105-130.44 – Credit for Construction of Poultry Composting Facility Repealed: This credit was repealed as part of the changes made to corporate income tax to reform and simplify the State's tax laws.

(Effective January 1, 2014, HB 998, s. 2.1(b), S.L. 13-316.)

INSURANCE GROSS PREMIUMS TAX

G.S. 58-6-25 – Insurance Regulatory Charge: The percentage rate to be used to calculate the insurance regulatory charge under this statute is 6% for the 2014 calendar year. This rate increases to 6.5% for calendar year 2015. This charge is a percentage of gross premiums tax liability.

(Effective August 7, 2014, SB 744, s. 20.2(a), S.L. 14-100.)

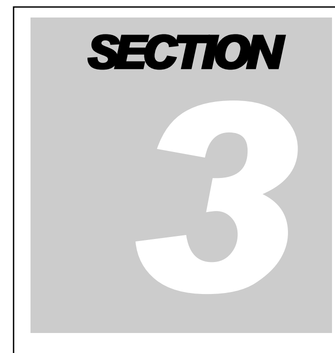
G.S. 105-228.4A(c) – Captive Insurance Company Tax Return Due Date: The subsection was amended to change the due date of the gross premium tax return filed by captive insurance companies from March 1 to March 15.

(Effective May 29, 2014, HB 1050, s. 14.11, S.L. 14-3.)

G.S. 105-228.5(d)(3) – Additional Rate on Property Coverage Contracts: The subdivision was amended to change the amount of the net proceeds of this additional tax that must be credited to Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes from 25% to 20%.

(Effective July 1, 2014, HB 1034, s. 3(b), S.L. 14-64.)

EXCISE TAX



TOBACCO PRODUCTS TAX – ARTICLE 2A

G.S. 105-113.4 - Definitions: This statute was rewritten to add or amend the following definitions to include vapor products under Article 2A.

Consumable product – (1k). This definition is added and defines “consumable product” as “[a]ny nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.”

(Effective June 1, 2015; HB 1050, s. 15.1.(a), S.L. 2014-3.)

Tobacco product – (11a). This definition is amended to include the term “vapor product.”

(Effective June 1, 2015; HB 1050, s. 15.1.(a), S.L. 2014-3.)

Vapor product – (13a). This definition is added and defines “vapor product” as “[a]ny nonlighted, noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to produce vapor from nicotine in a solution. The term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.”

(Effective June 1, 2015; HB 1050, s. 15.1.(a), S.L. 2014-3.)

Nothing in the statutes imposing tax on tobacco products “shall be construed as circumventing future United States Food and Drug Administration regulation of tobacco products, other tobacco products, or vapor products.”

(Effective June 1, 2015; HB 1050, s. 15.1.(f), S.L. 2014-3.)

G.S. 105-113.13(b) – Bond or Irrevocable Letter of Credit: This subsection was rewritten to clarify that the Secretary must set the bond required of a distributor in an amount "based on the anticipated tax liability of the distributor" and that the bond should be periodically reviewed to determine whether the amount of the bond should be increased or decreased.

This subsection was also rewritten to clarify that an irrevocable letter of credit may be substituted for the secured bond required by this section.

(Effective May 29, 2014; HB 1050, s. 9.1.(a), S.L. 2014-3.)

G.S. 105-113.35 – Tax on Tobacco Products Other Than Cigarettes: This statute was rewritten to clarify that vapor products are not taxed at the same rates as cigarettes or other tobacco products. Subsection (a1) was added to levy an excise tax on vapor products "at the rate of five cents (5¢) per fluid milliliter of consumable product." This subsection further provides that manufacturers' invoices "must state the amount of consumable product in milliliters."

(Effective June 1, 2015; HB 1050, s. 15.1.(b), S.L. 2014-3.)

G.S. 105-113.37(b) – Designation of Exempt Sale: This subsection was rewritten to update a statutory reference.

(Effective June 1, 2015; HB 1050, s. 15.1.(c), S.L. 2014-3.)

G.S. 105-113.38 – Bond or Irrevocable Letter of Credit: This section was rewritten to clarify that the Secretary must set the bond required of a wholesale dealer or a retail dealer in an amount "proportionate to the anticipated tax liability of the wholesale dealer or retail dealer" and that the bond should be periodically reviewed to determine whether the amount of the bond should be increased or decreased.

This section was also rewritten to clarify that an irrevocable letter of credit may be substituted for the secured bond required by this section.

(Effective May 29, 2014; HB 1050, s. 9.1.(b), S.L. 2014-3.)

G.S. 105-113.39(a) – Discount: This subsection was rewritten to clarify that the discount allowed on tobacco products does not include vapor products.

(Effective June 1, 2015; HB 1050, s. 15.1.(d), S.L. 2014-3.)

G.S. 105-113.39(b) – Refund: This subsection was rewritten to add that the manufacturer may provide "a written certificate signed under penalty of perjury" or an affidavit which verifies the unsalable tobacco products returned by the wholesale dealer or retail dealer to the manufacturer.

(Effective May 29, 2014; HB 1050, s. 9.2, S.L. 2014-3.)

G.S. 105-113.40A – Use of Tax Proceeds: Subsection (1a) was added to provide that the Secretary must credit the net proceeds of tax on vapor products as follows:

"(1a) An amount equal to the revenue generated by the tax on vapor products under G.S. 105-113.35(a1) to the General Fund."

(Effective June 1, 2015; HB 1050, s. 15.1.(e), S.L. 2014-3.)

ALCOHOLIC BEVERAGE LICENSE AND EXCISE TAXES - ARTICLE 2C

G.S. 105-113.86 – Bond or Irrevocable Letter of Credit: Subsection (a) was rewritten to clarify that the Secretary must set the bond required of a wholesaler or importer in an amount "proportionate to the anticipated tax liability of the wholesaler or importer" and that the bond should be periodically reviewed to determine whether the amount of the bond should be increased or decreased.

Subsection (c) was rewritten to add that an irrevocable letter of credit may be substituted for the secured bond required by this section.

(Effective May 29, 2014; HB 1050, s. 9.1.(c), S.L. 2014-3.)

SEVERANCE TAX – ARTICLE 5I

Article 5I – Severance Tax: This is a new article. This Article imposes an excise tax on the privilege of engaging in the severance of energy minerals from the soil or water of this State.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.71 – Definitions: The 2013 General Assembly added multiple definitions. The changes and their effective dates are as follows:

Casinghead gas – (1). This definition is added and defines "casinghead gas" as "[g]as or vapor indigenous to an oil stratum and produced from the stratum with oil."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Commission – (2). This definition is added and defines "commission" as "[t]he Mining and Energy Commission."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Condensate – (3). This definition is added and defines "condensate" as "[l]iquid hydrocarbon that is or can be recovered from gas by a separator or other means."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Energy mineral – (4). This definition is added and defines "energy mineral" as "[a]ll forms of natural gas, oil, and related condensates."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

First purchaser – (5). This definition is added and defines "first purchaser" as "[a] person who purchases an energy mineral from a producer."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Gas – (6). This definition is added and defines "gas" as "[a]ll natural gas, including casinghead gas, and all other hydrocarbons not defined as condensates."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Gross price – (7). This definition is added and defines "gross price" as "[t]he total price paid by the first purchaser of the energy mineral at the wellhead."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Marginal gas well – (8). This definition is added and defines "marginal gas well" as "[a] well incapable of producing more than 100 MCF per day, as determined by the Commission using the current wellhead deliverability rate methodology utilized by the Commission, during the calendar month for which the severance tax report is filed."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

MCF – (9). This definition is added and defines "MCF" as "[o]ne thousand cubic feet of natural gas."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Oil – (10). This definition is added and defines "oil" as "[c]rude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the reservoir."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Owner – (11). This definition is added and defines "owner" as "[a]n owner of a landowner's royalty interest, of an overriding royalty, of profits and working interests, or

any combination thereof in energy minerals. The term does not include an owner of federal, State, or local governmental royalty interest."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Person – (12). This definition is added and defines "person" as "[d]efined in G.S. 105-228.90."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Producer – (13). This definition is added and defines "producer" as "[a] person who takes an energy mineral from the soil or water in this State."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Return – (14). This definition is added and defines "return" as "[a]ny report or statement required to be filed under this Article to determine the tax due."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Royalty interest – (15). This definition is added and defines "royalty interest" as "[a]n interest in mineral rights in a producing leasehold in the State. A royalty interest does not include the interest of a person having only the management and operation of a well."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Secretary – (16). This definition is added and defines "Secretary" as "[t]he Secretary of Revenue."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Severance – (17). This definition is added and defines "severance" as "[t]he extraction or other removal of an energy mineral from the soil or water of this State."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Severed – (18). This definition is added and defines "severed" as "[t]he point at which the energy mineral has been separated from the soil or water of this State."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

Standard barrel of oil – (19). This definition is added and defines "standard barrel of oil" as "[a] barrel of oil containing 42 gallons."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

<u>Taxpayer – (20).</u> This definition is added and defines “Taxpayer” as “[a]ny person required to pay the severance tax levied by this Article.”

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.72(a) – Tax on Severance of Energy Minerals: This subsection was written to state the purpose for the excise tax which is to “[p]rovide revenue to administer and enforce the provisions of this Article, to administer the State’s natural gas and oil reclamation regulatory program, to meet the environmental and resource management needs of this State, and to reclaim land affected by exploration for, drilling for, and production of natural gas and oil. The severance tax is imposed upon all energy minerals severed when sold.”

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.72(b) – Calculation of Tax: This subsection was written to explain the calculation of the severance tax. The severance tax on “Condensates” is calculated using the applicable percentage rate of the gross price paid. The severance tax on “Gas” is calculated using the applicable percentage rate of the market value as determined in G.S. 105-187.73. The severance tax on “Oil” is calculated using the applicable percentage rate of the gross price paid.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.72(c) – Oil and Condensates Rate: This subsection was written to explain that effective July 1, 2015 the percentage rate for condensates and oil is two percent (2%).

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.72(c) – Oil and Condensates Rate: This subsection was written to explain that effective January 1, 2019 the percentage rate for condensates and oil is three and one half percent (3.5%).

(Effective January 1, 2019; SB 786, s. 17.(d), S.L. 2014-4.)

G.S. 105-187.72(c) – Oil and Condensates Rate: This subsection was written to explain that effective January 1, 2021 the percentage rate for condensates and oil is five percent (5%).

(Effective January 1, 2021; SB 786, s. 17.(e), S.L. 2014-4.)

G.S. 105-187.72(d) – Marginal Gas Rate: This subsection was written to explain that effective July 1, 2015 the percentage rate for severance of a gas from a marginal gas well is four-tenths of one percent (.04%). This subsection also allows a producer to elect to have the gas taxed at the marginal gas rate or the gas rate. Furthermore, this

subsection allows a producer of a proposed or existing gas well to apply to the Mining and Energy Commission for a determination that the well qualifies as a marginal gas well.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.72(d) – Marginal Gas Rate: This subsection was amended to explain that effective January 1, 2019 the percentage rate for severance of a gas from a marginal gas well is six-tenths of one percent (.06%). This subsection also allows a producer to elect to have the gas taxed at the marginal gas rate or the gas rate. Furthermore, this subsection allows a producer of a proposed or existing gas well to apply to the Mining and Energy Commission for a determination that the well qualifies as a marginal gas well.

(Effective January 1, 2019; SB 786, s. 17.(d), S.L. 2014-4.)

G.S. 105-187.72(d) – Marginal Gas Rate: This subsection was amended to explain that effective January 1, 2021 the percentage rate for severance of a gas from a marginal gas well is eight-tenths of one percent (.08%). This subsection also allows a producer to elect to have the gas taxed at the marginal gas rate or the gas rate. Furthermore, this subsection allows a producer of a proposed or existing gas well to apply to the Mining and Energy Commission for a determination that the well qualifies as a marginal gas well.

(Effective January 1, 2021; SB 786, s. 17.(e), S.L. 2014-4.)

G.S. 105-187.72(e) – Gas Rate: This subsection was written to explain that the percentage rate for gas is nine-tenths of one percent (0.9%).

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.72(e) – Gas Rate: This subsection was amended to explain that effective January 1, 2019 “[t]he percentage rate for gas is set in the table below. The tax rate is applied to the delivered to market value of the gas sold.

Over	Up to	Rate
-0-	$3.00 per MCF	0.9%
$3.01 per MCF	$4.00	1.9%
$4.01	N/A	2.9%”

(Effective January 1, 2019; SB 786, s. 17.(d), S.L. 2014-4.)

G.S. 105-187.72(e) – Gas Rate: This subsection was amended to explain that effective January 1, 2021 "[t]he percentage rate for gas is set in the table below. The tax rate is applied to the delivered to market value of the gas sold.

Over	Up to	Rate
-0-	$3.00 per MCF	0.9%
$3.01 per MCF	$4.00	1.9%
$4.01	$5.00	2.9%
$5.01	$6.00	3.9%
$6.01	$7.00	4.9%
$7.01	N/A	5%"

(Effective January 1, 2021; SB 786, s. 17.(e), S.L. 2014-4.)

G.S. 105-187.72(e) – Gas Rate: This subsection was amended to explain that effective January 1, 2023 "[t]he percentage rate for gas is set in the table below. The tax rate is applied to the delivered to market value of the gas sold.

Over	Up to	Rate
-0-	$3.00 per MCF	0.9%
$3.01 per MCF	$4.00	1.9%
$4.01	$5.00	2.9%
$5.01	$6.00	3.9%
$6.01	$7.00	4.9%
$7.01	$8.00	5.9%
$8.01	$9.00	6.9%
$9.01	$10.00	7.9%
$10.01	N/A	9%"

(Effective January 1, 2023; SB 786, s. 17.(f), S.L. 2014-4.)

G.S. 105-187.73(a) – Delivered to Market Value of Natural Gas: This subsection was written to explain that "[t]he delivered to market value of natural gas is the total actual gross price as adjusted in this section. The delivered to market value of gas is determined by subtracting the producer's actual costs to deliver the gas to the market from the producer's total gross cash receipts from the sale of the natural gas. A producer receiving a cost reimbursement from the gas purchaser shall include the reimbursement in the gross cash receipts and is entitled to deduct the actual costs of delivering the gas to market incurred."

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.73(b) – Records: This subsection was written to explain the record keeping requirements of the producer for purposes of calculating the delivered-to-market value of natural gas.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.73(c) – Costs to Deliver the Gas to the Market and Facilities Used to Deliver the Gas to the Market: This subsection was written to define a "facility used to deliver the gas to market" and the actual and reasonable costs of the producer to deliver the gas to the market.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.74 – On-site Use Exemption From the Tax: This statute was written to provide a yearly cumulative exemption of one thousand two hundred dollars ($1,200) of severed energy minerals delivered to market value that are used on-site by the producer. When the severed energy minerals exceed one thousand two hundred dollars ($1,200) during any year, the further severance of energy minerals shall be subject to the severance tax.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.75(a) – Returns and Payment of Tax: This subsection was written to explain that the producer must file and pay taxes when due, either quarterly or monthly. The return must be on a form prescribed by the Secretary and must be signed by the taxpayer or the taxpayer's agent.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.75(b) – Payment: This subsection was written to explain that the producer shall pay the tax for all owners of the energy minerals and shall withhold from any payment due owners the proportionate tax due for remittance to the Secretary.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.75(c) – Quarterly: This subsection was written to explain that any taxpayer that is consistently liable for less than one thousand dollars ($1,000) a month in severance taxes must file a return and pay the taxes due on a quarterly basis. The quarterly return is due by the 25th day of the second month following the end of a quarter.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.75(d) – Monthly: This subsection was written to explain that any taxpayer that is consistently liable for at least one thousand dollars ($1,000) a month in severance taxes must file a return and pay the taxes due on a monthly basis. The monthly return is due by the 25th day of the second month following the calendar month covered by the return.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.75(e) – Category: This subsection was written to explain that the Secretary must monitor the amount of severance taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new taxpayer and must direct each taxpayer to pay tax and file returns as required under Article 5I.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.75(f) – Information on Return: This subsection was written to explain the information that must be included on the return. Returns that do not contain the information outlined in this subsection will not be accepted and the Secretary will require a corrected return.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.75(g) – Additional Information: This subsection was written to explain that the producer or taxpayer of a proposed or existing gas well shall apply to the Secretary for determination of eligibility to claim an on-site use exemption from the severance tax. The Secretary is required to make a determination within 15 calendar days of the receipt of all information required from the producer or taxpayer. The burden of proving eligibility is on the taxpayer. No exemption shall be allowed to a taxpayer that does not keep adequate records.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.75(h) – Commission Determination: This subsection was written to explain that the producer or taxpayer of a proposed or existing gas well shall provide the Secretary proof that the Mining and Energy Commission has determined the well qualifies as a marginal gas well. Providing this information to the Secretary will allow the taxpayer or producer to claim the marginal gas rate.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.76 – Bond or Letter of Credit Required: This statute was written to require a producer to file with the Secretary a bond or an irrevocable letter of credit if the producer fails to file a return as required under Article 5I. This statute also explains that the bond or irrevocable letter of credit is two times the applicant's average expected monthly tax liability. A person must file a bond or irrevocable letter of credit in the required amount within 30 days after receiving the notice from the Secretary.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.77 – Liability of Producer for Tax: This statute was written to explain that the primary liability for the severance tax is on the producer. It also clarifies that the first purchaser may not take delivery of energy minerals from a producer unless the producer furnishes the purchaser with a tax identification number assigned by the Secretary. If the first purchaser does not secure the tax identification number either

from the producer or the Secretary, the first purchaser will be liable for any tax, penalty, and interest due on the energy minerals purchased from the producer.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.78 – Royalty Owner's Records: This statute was written to require the owner of a royalty interest to keep certain records and provide them to the Secretary, upon request.

(Effective July 1, 2015; SB 786, s. 17.(a), S.L. 2014-4.)

G.S. 105-187.79 – Permits Suspended for Failure to Report: This statute was written to explain that if an entity fails to file any report, return or pay any tax or fee required under Article 5I for 90 days after it is due, the Secretary shall inform the Secretary of Environment and Natural Resources of this failure. The Secretary of Environment and Natural Resources shall suspend permits for oil and gas exploration under G.S. 113-395 for failure to file a return under Article 5I. The Secretary of Environment and Natural Resources will notify the entity of the suspension.

(Effective January 1, 2015; SB 786, s. 30.(b), S.L. 2014-4.)

G.S. 105-187.80 – No Local Taxation: This statute was written to prevent a county or city from imposing a franchise, privilege, license, income, or excise tax on energy minerals or upon the business of severing energy minerals. This statute does not preclude the taxation of the property in accordance with Article 11.

(Effective January 1, 2015; SB 786, s. 30.(c), S.L. 2014-4.)

TAX ON MOTOR CARRIERS – ARTICLE 36B

Heading Change: The heading of Article 36B, Tax on Carriers Using Fuel Purchased Outside State, was rewritten to read "Tax on Motor Carriers" to clarify that this Article applies to both interstate and intrastate motor carriers.

(Effective May 29, 2014; HB 1050, s. 9.5.(a), S.L. 2014-3.)

G.S. 105-449.37 – Definitions; Tax Liability; Application: Subsection (a)(1) was rewritten to update the amendment of the Articles of Agreement adopted by the International Fuel Tax Association, Inc. to July 1, 2013.

Subsection (c) was added to clarify that Article 36B applies to both interstate motor carriers and intrastate motor carriers and to provide that a "motor carrier who operates a qualified motor vehicle in this State must register the vehicle as provided in this Article and obtain the appropriate license and decals for the vehicle."

(Effective May 29, 2014; HB 1050, s. 9.5.(b), S.L. 2014-3.)

G.S. 105-449.47(a) – Requirement: Subsection (a) was rewritten to clarify that a motor carrier that is subject to the International Fuel Tax Agreement, a motor carrier that is not subject to the International Fuel Tax Agreement, and a motor carrier that operates a recreational vehicle that is considered a qualified motor vehicle must register with the Secretary for purposes of the tax imposed by this Article.

(Effective May 29, 2014; HB 1050, s. 9.5.(c), S.L. 2014-3.)

G.S. 105-449.52(b) – Penalty: This subsection was rewritten to provide that civil penalties applicable to motor carriers may be reduced or waived by the Secretary as provided under G.S. 105-449.119.

(Effective May 29, 2014; HB 1050, s. 9.8.(a), S.L. 2014-3.)

GASOLINE, DIESEL, AND BLENDS – ARTICLE 36C

G.S. 105-449.61(a) – No Local Tax: This subsection was rewritten to clarify when local tax could be imposed. The subsection now reads: "A county or city may not impose a tax on the sale, distribution, or use of motor fuel, except motor fuel for which a refund of the per gallon excise tax is allowed under G.S. 105-449.105A or G.S. 105-449.107."

(Effective May 29, 2014; HB 1050, s. 9.6, S.L. 2014-3.)

G.S. 105-449.80(a) – Cap Excise Tax on Motor Fuel: This subsection was rewritten to cap the motor fuel excise tax so it may not exceed thirty-seven and one-half cents (37 ½¢) per gallon for the period October 1, 2013 through June 30, 2015.

(Effective for the period of October 1, 2013 – June 30, 2015; HB 998, s. 8.(a), S.L. 2013-316.)

G.S. 105-449.81 – Excise Tax on Motor Fuel: This statute was rewritten to impose excise tax on biodiesel fuel at the same points as the excise tax imposed on fuel grade ethanol as follows:

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

…

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

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

…"

(Effective October 1, 2014; HB 1050, s. 9.7.(a), S.L. 2014-3.)

G.S. 105-449.83A -- Liability for Tax on Fuel Grade Ethanol and Biodiesel: This statute was rewritten to clarify that the excise tax on biodiesel fuel is payable by the refiner or the biodiesel provider.

(Effective October 1, 2014; HB 1050, s. 9.7.(b), S.L. 2014-3.)

G.S. 105-449.106(b) – Taxi: The quarterly motor fuels excise tax refund allowed to taxicabs while transporting passengers for hire or to buses operated as part of a city transit system not regulated by the North Carolina Utilities Commission is repealed.

(Effective for taxable years beginning on or after January 1, 2015; SB 744, s. 34.6.(a), S.L. 2014-100.)

G.S. 105-449.106(c) – Special Mobile Equipment: This subsection was rewritten to remove “or privilege tax” from the deduction from the excise tax refund to conform to sales and use tax law.

(Effective May 29, 2014; HB 1050, s. 9.10.(a), S.L. 2014-3.)

G.S. 105-449.107 – Annual Refunds for Off-Highway Use and Use by Certain Vehicles with Power Attachments: Subsections (a) and (b) were rewritten to remove “or privilege tax” from the deduction from the excise tax refund to conform to sales and use tax law.

Subsection (c) was rewritten to specify how to determine the State sales and use tax and the local sales and use tax to be deducted under this section from a motor fuel excise tax refund.

(Effective May 29, 2014; HB 1050, s. 9.10.(b), S.L. 2014-3.)

G.S. 105-449.115(b) – Content: This subsection was rewritten to clarify that a shipping document is a permanent record.

(Effective October 1, 2014; HB 1050, s. 9.9.(a), S.L. 2014-3.)

G.S. 105-449.119 – Review of Civil Penalty Assessment: This statute was rewritten to provide that a civil penalty imposed under Part 6 of this Article may be reduced or waived by the Secretary as provided in Article 9 of this Chapter.

(Effective May 29, 2014; HB 1050, s. 9.8.(b), S.L. 2014-3.)

G.S. 105-449.125 – Distribution of Tax Revenue Among Various Funds and Accounts: Notwithstanding the provisions of the motor fuels excise tax distribution statute G.S. 105-449.125, one million dollars ($1,000,000) that would otherwise be credited to the Water and Air Quality Account shall be credited to the State’s General Fund during the 2014-2015 fiscal year.

(Effective July 1, 2014; SB 744, s. 2.2.(f), S.L. 2014-100.)

"Notwithstanding G.S. 105-449.125, in addition to the funds credited under G.S. 105-449.126, the Secretary of Revenue shall also credit the sum of one million six hundred seventy-seven thousand one hundred thirty-four dollars ($1,677,134) to the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund for the 2014-2015 fiscal year no later than November 15, 2014. The funds distributed shall be from the funds collected under Article 36C of Chapter 105 of the General Statutes from the effective date of this act until November 15, 2014."

(Effective July 1, 2014; SB 744, s. 14.18.(c), S.L. 2014-100.)

G.S. 105-449.126 – Distribution of Part of Highway Fund Allocation to Wildlife Resources Fund and Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund: Subsections (a) and (b) were rewritten to change these distributions from annually to quarterly. Distribution is to be made to each fund within 45 days of the end of each quarter.

(Effective for quarters beginning on or after January 1, 2014; SB 744, s. 14.18.(a), S.L. 2014-100.)

"Notwithstanding G.S. 105-449.125, the funds credited to the Wildlife Resources Fund and the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund for the first quarter of calendar year 2014 shall be distributed no later than September 15, 2014. Notwithstanding G.S. 105-449.125, the funds credited to the Wildlife Resources Fund and the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund for the last quarter of calendar year 2014 shall be allocated to the Highway Trust Fund."

(Effective July 1, 2014; SB 744, s. 14.18.(b), S.L. 2014-100.)

ALTERNATIVE FUEL – ARTICLE 36D

G.S. 105-449.130 – Definitions: This statute was rewritten to add new subsections to the definitions statute under Article 36D.

Diesel gallon equivalent of liquefied natural gas – (1f). This subsection is added and defines "diesel gallon equivalent of natural gas" as "[t]he energy equivalent of 6.06 pounds of liquefied natural gas."

(Effective January 1, 2015; SB 786, s. 30.(a), S.L. 2014-4.)

Gas gallon equivalent of compressed natural gas – (1g). This subsection is added and defines "gas gallon equivalent of compressed natural gas" as "[t]he energy equivalent of 5.66 pounds of compressed natural gas."

(Effective January 1, 2015; SB 786, s. 30.(b), S.L. 2014-4.)

G.S. 105-449.136 – Tax on Alternative Fuel: This statute was rewritten to amend the statute and to divide the statute into two subsections. Subsection (a) concerns the rate of tax and clarifies that tax on liquefied natural gas is imposed on each diesel gallon equivalent and that tax on compressed natural gas is imposed on each gas gallon equivalent. The Secretary must determine the equivalent rate for other non-liquid alternative fuels. Subsection (b) provides information concerning how the tax on alternative fuel is administered.

(Effective January 1, 2015; SB 786, s. 30.(c), S.L. 2014-4.)

GENERAL ADMINISTRATION; PENALTIES AND REMEDIES – ARTICLE 9

G.S. 105-259(b)(40a) – Disclosure to a Data Clearinghouse: This subsection was changed to add a new subdivision. The new subdivision allows the Department to furnish to a data clearinghouse "the information required to be released in accordance with the State's agreement under the December 2012 Term Sheet Settlement, as finalized by the State in the NPM Adjustment Settlement Agreement, concerning annual tobacco product sales by a nonparticipating manufacturer."

(Effective May 29, 2014; HB 1050, s. 9.3, S.L. 2014-3.)

G.S. 105-259(b)(46) – Disclosure to Provider of Bond or Irrevocable Letter of Credit. This subsection was changed to add a new subdivision. The new subdivision allows the Department to furnish to a person who provides a bond or letter of credit to the Department on behalf of a taxpayer, the information necessary to collect on the bond or letter of credit if the taxpayer does not pay the tax due which is covered by the instrument.

(Effective May 29, 2014; HB 1050, s. 9.3, S.L. 2014-3.)

G.S. 105-259(b)(46) – Disclosure to Furnish the Department of Environment and Natural Resources Information: This subsection was changed to add a new subdivision. The new subdivision allows the Department to furnish the Department of Environment and Natural Resources information to enable the Secretary of Environment and Natural Resources to suspend permits of entities under G.S. 113-395.

(Effective July 1, 2015; SB 786, s. 17.(b), S.L. 2014-4.)

G.S. 105-260.1 – Delegation of Authority to Hold Hearings: This section was rewritten to allow the Secretary to delegate the authority to hold a hearing required or allowed under Chapter 105.

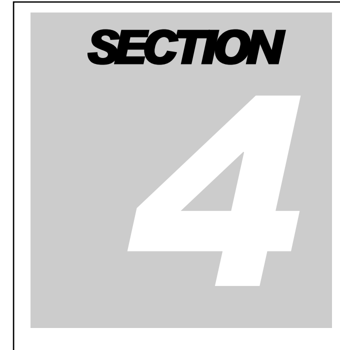
(Effective May 29, 2014; HB 1050, s. 9.4, S.L. 2014-3.)

GASOLINE AND OIL INSPECTION AND REGULATION – ARTICLE 3

G.S. 119-18 – Inspection Tax and Distribution of the Tax Proceeds: Subsection (b) was rewritten to make a conforming change to the name of the program to which the inspection tax proceeds after the costs of administration are to be credited because the Department of Transportation's "system preservation program" was renamed "the bridge program."

(Effective July 1, 2014; SB 744, s. 34.18.(b), S.L. 2014-100.)

SALES AND USE TAX



SALES AND USE TAX

DEFINITIONS

G.S. 105-164.3 – Definitions: The 2013 and 2014 General Assembly added and amended multiple definitions. The changes and their effective dates are as follows:

Consumer – (5). This definition is amended to add "supplier" in conjunction with the addition of G.S. 105-164.4H.

(Effective January 1, 2015, and applies to sales on or after that date and contracts entered into on or after that date; HB 1050, s. 7.1.(a), S.L. 14-3.)

Net taxable sales – (24). This definition is amended to modernize the language. No substantial change.

(Effective May 29, 2014; HB 1050, s. 14.7., S.L. 14-3.)

Prepaid calling service – (27). This definition was previously codified as (26b).

(Effective May 29, 2014; HB 1050, s. 4.1.(a), S.L. 14-3.)

Prepaid meal plan – (27a). This definition is added and defines "prepaid meal plan" as "[a] plan offered by an institution of higher education that meets all of the following requirements:

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

(Effective May 29, 2014 and applies to gross receipts derived from a prepaid meal plan sold or billed after July 1, 2014; HB 1050, s. 4.1.(a), S.L. 14-3.)

Prepaid telephone calling service – (27b). This definition was previously codified as (27).

(Effective May 29, 2014; HB 1050, s. 4.1.(a), S.L. 14-3.)

Prepaid wireless calling service – (27c). This definition was previously codified as (27a).

(Effective May 29, 2014; HB 1050, s. 4.1.(a), S.L. 14-3.)

Retailer – (35). This definition is amended to modernize the language.

(Effective May 29, 2014; HB 1050, s. 14.7., S.L. 14-3.)

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

(Effective January 1, 2015, and applies to sales on or after that date and contracts entered into on or after that date; HB 1050, s. 7.1.(a), S.L. 14-3.)

Retailer – (35)b. This definition is amended and states: "Delivering, erecting, installing, or applying tangible personal property for use in this State that does not become part of real property pursuant to the [sales and use] tax imposed under G.S. 105-164.4(a)(13)."

(Effective January 1, 2015, and applies to sales on or after that date and contracts entered into on or after that date; HB 1050, s. 7.1.(a), S.L. 14-3.)

Retailer-contractor – (35a). This definition is added and defines "retailer-contractor" as "[a] person that acts as a retailer when it sells tangible personal property at retail and as a real property contractor when it performs real property contracts."

(Effective January 1, 2015, and applies to sales on or after that date and contracts entered into on or after that date; HB 1050, s. 7.1.(a), S.L. 14-3.)

Service contract – (38b). This definition is added and defines "service contract" as "[a] warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract by which the seller agrees to maintain or repair tangible personal property."

(Effective January 1, 2014 and applies to sales on or after that date; HB 998, s. 6.(a), S.L. 13-316.)

Service contract – (38b). This definition is amended and defines "service contract" as "[a] contract where the obligor under the contract agrees to maintain or repair tangible personal property or a motor vehicle. Examples of a service contract include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no

charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract."

(Effective October 1, 2014 and applies to gross receipts derived from a service contract sold at retail on or after that date; HB 1050, s. 6.1.(a), S.L. 14-3.)

Streamlined Agreement – (45a). This definition is amended to reference the version of the Streamlined Sales and Use Tax Agreement dated October 30, 2013.

(Effective May 29, 2014; HB 1050, s. 14.7., S.L. 14-3.)

SALES AND USE TAX IMPOSITIONS

G.S. 105-164.4(a) – Sales and Use Tax Imposed on Retailers: This subsection is amended by adding clarifying language that provides "[f]or purposes of this section, the term 'gross receipts' has the same meaning as the term 'sales price.'" This language was added to codify the Department's administrative policy. This subsection is also amended by adding clarifying language of "engaged in business in the State" after "retailer."

(Effective May 29, 2014; HB 1050, s. 5.1.(a), S.L. 14-3. Effective May 29, 2014; HB 1050, s. 14.8., S.L. 14-3. Effective June 1, 2014, and applies to gross receipts derived from the rental of an accommodation that a person occupies or has the right to occupy on or after that date; HB 1050, s. 8.1.(a), S.L. 14-3.)

G.S. 105-164.4(a)(1a) – Manufactured Home: This subdivision is amended to increase the 2.00% State rate of sales and use tax to the 4.75% general State rate of sales and use tax. The general State rate of sales and use tax applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. Manufactured homes no longer have a maximum tax. See the discussion for G.S. 105-164.13(64) regarding the fifty percent exemption applicable to the sales price of a manufactured home, including all accessories attached when delivered to the purchaser, sold on or after September 1, 2014.

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.1.(a), S.L. 13-316.)

G.S. 105-164.4(a)(1f) – Electricity Sold to a Commercial Laundry: The 2.83% State rate of sales and use tax, applicable to the sales price of electricity that is measured by a separate meter or another separate device and sold to a commercial laundry or to a pressing and dry-cleaning establishment for use in machinery used in the direct performance of the laundering or the pressing and cleaning service, is repealed. See G.S. 105-164.4(a)(9) for the rate of sales and use tax applicable to the gross receipts derived from electricity billed to a commercial laundry on or after July 1, 2014.

(Effective July 1, 2014 and applies to gross receipts billed on or after that date; HB 998, s. 4.1.(c), S.L. 13-316.)

G.S. 105-164.4(a)(2) – Lease or Rental of Tangible Personal Property: This subdivision is amended to remove superfluous language.

(Effective May 29, 2014; HB 1050, s. 14.8. S.L. 14-3.)

G.S. 105-164.4(a)(3) – Accommodations: This subdivision is amended and states: "[t]he general [State and applicable local and transit] rate[s] appl[y] to the gross receipts derived from the rental of an accommodation. These rentals are taxed in accordance with G.S. 105-164.4F." G.S. 105-164.4F is a new section and is discussed later in this document.

(Effective June 1, 2014, and applies to gross receipts derived from the rental of an accommodation that a person occupies or has the right to occupy on or after that date; HB 1050, s. 8.1.(a), S.L. 14-3.)

G.S. 105-164.4(a)(4a) – Sales of Electricity: The 3.00% State rate of sales and use tax, applicable to the gross receipts derived from sales of electricity, other than sales of electricity subject to sales and use tax under another subdivision in this section, is repealed. See G.S. 105-164.4(a)(9) for the rate of sales and use tax applicable to the gross receipts derived from electricity billed on or after July 1, 2014. See the discussion for G.S. 105-164.4(a)(14a) for the rate of sales and use tax derived from the gross receipts from sales of electricity by Cape Hatteras Electric Membership Corporation billed on or after July 1, 2014 and prior to July 1, 2015.

(Effective July 1, 2014 and applies to gross receipts billed on or after that date; HB 998, s. 4.1.(c), S.L. 13-316.)

G.S. 105-164.4(a)(4b) – Person Who Sells at a Specialty Market or Other Event: This subdivision is amended to add "or other event" to harmonize the levy language with language in G.S. 66-250.

(Effective May 29, 2014; HB 1050, s. 14.8., S.L. 14-3.)

G.S. 105-164.4(a)(4d) – Gross Receipts Derived for the Sale or Recharge of Prepaid Telephone Calling Service: This subdivision is amended to harmonize the levy language with other similar levies within this subdivision. No substantial change.

(Effective May 29, 2014; HB 1050, s. 14.8., S.L. 14-3.)

G.S. 105-164.4(a)(8) – Modular Home: This subdivision is amended to increase the 2.50% State rate of sales and use tax to the 4.75% general State rate of sales and use tax. The general State rate of sales and use tax applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular

homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the sales and use tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home. See the discussion for G.S. 105-164.13(64) regarding the fifty percent exemption applicable to the sales price of a modular home, including all accessories attached when delivered to the purchaser, sold on or after September 1, 2014.

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.1.(a), S.L. 13-316.)

G.S. 105-164.4(a)(9) – Sales of Electricity and Piped Natural Gas: This is a new subdivision. The combined general rate of sales and use tax of 7.00% applies to the gross receipts derived from sales of electricity and piped natural gas. The combined general rate of sales and use tax of 7.00% also applies to receipts from sales of electricity by the Cape Hatteras Electric Membership Corporation. See the discussion for G.S. 105-164.4(a)(14a) for the rate of sales and use tax derived from the gross receipts from sales of electricity by Cape Hatteras Electric Membership Corporation billed on or after July 1, 2014 and prior to July 1, 2015. See the discussion for G.S. 105-164.4(a)(14) for the rate of sales and use tax applicable to certain gross receipts of piped natural gas billed on or after July 1, 2014, and before July 1, 2015.

(Effective July 1, 2014 and applies to gross receipts billed on or after that date; HB 998, s. 4.1.(e), S.L. 13-316.)

G.S. 105-164.4(a)(10) –Sales and Use Tax Imposed on Admission Charges to an Entertainment Activity: This is a new subdivision and applies to sales and use tax imposed on certain admission charges to an entertainment activity for the period January 1, 2014 through May 29, 2014. Effective May 29, 2014 a number of changes were enacted by the General Assembly regarding sales and use tax imposed on admission charges to an entertainment activity as discussed later in this document. The general State rate of sales and use tax of 4.75% and applicable local and transit rates of tax apply to:

> Admission charges to an entertainment activity listed in this subdivision. Offering any of these listed activities is a service. An admission charge includes a charge for a single ticket, a multioccasion ticket, a seasonal pass, an annual pass, and a cover charge.
>
> An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the [sales and use] tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the [sales and use] tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

Admission charges to the following entertainment activities are subject to [sales and use] tax:

a. A live performance or other live event of any kind.
b. A motion picture or film.
c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions.

(Effective January 1, 2014 and applies to admissions purchased on or after that date. For admissions to a live event, the sales and use tax applies to the initial sale or resale of tickets occurring on or after that date; gross receipts received on or after January 1, 2014 for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1; HB 998, s. 5.(b), S.L. 13-316.

G.S. 105-164.4(a)(10) – Admission Tickets to a Live Event
For admissions to a live event, the sales and use tax applies to the initial sale or resale of tickets occurring on or after that date; gross receipts received on or after January 1, 2014 for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1. Gross receipts derived from an admission charge sold at retail to a live event occurring on or after January 1, 2015, are taxable under G.S. 105-164.4G, regardless of when the initial sale of a ticket to the event occurred.

(Effective January 1, 2014 and applies to gross receipts derived from an admission charge sold at retail on or after that date; HB 1050, s. 5.1.(f), S.L. 14-3.)

G.S. 105-164.4(a)(10) – Ticket Resellers
Effective May 29, 2014, sales and use tax is due on the sale of the admission charge sold at retail by a ticket reseller. A ticket reseller should issue Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, or other information as required per N.C. Gen. Stat. § 105-164.28, as the seller's authority not to charge sales and use tax on the purchase of an admission charge for resale by a ticket reseller.

Prior to May 29, 2014, a ticket reseller engaged in business in the state reselling tickets on or after January 1, 2014, including tickets to a live event, was required to remit sales and use tax on the difference between the amount the ticket reseller paid for the ticket and the amount the ticket reseller charged for a ticket.

(Effective May 29, 2014 and applies to gross receipts derived from an admission charge sold at retail on or after that date; HB 1050, s. 5.1.(c), S.L. 14-3.)

G.S. 105-164.4(a)(10) – Sales and Use Tax Imposed on Gross Receipts Derived from an Admission Charge to an Entertainment Activity: This subdivision is amended and states: "[t]he general [State and applicable local and transit] rate[s] of [sales and use] tax appl[y] to the gross receipts derived from an admission charge to an entertainment activity. Gross receipts derived from an admission charge to an entertainment activity are taxable in accordance with G.S. 105-164.4G." G.S. 105-164.4G is a new section and will be discussed later in this document.

(Effective May 29, 2014 and applies to gross receipts derived from an admission charge sold at retail; HB 1050, s. 5.1.(a), S.L. 14-3.)

G.S. 105-164.4(a)(11) – Sales and Use Tax Imposed on the Sales Price of Service Contracts: This is a new subdivision that was added effective January 1, 2014 and provided "[t]he general [State and applicable local and transit] rate[s] of [sales and use] tax appl[y] to the sales price of a service contract." The subdivision was amended effective October 1, 2014 by the 2014 General Assembly and the amended language provides "[t]he general [State and applicable local and transit] rate[s] of [sales and use] tax appl[y] to the sales price of or the gross receipts derived from a service contract. A service contract is taxed in accordance with G.S. 105-164.4I." G.S. 105-164.4I is a new section and will be discussed later in this document.

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 6.(b), S.L. 13-316. Effective October 1, 2014 and applies to gross receipts derived from a service contract sold at retail on or after that date; HB 1050, s. 6.1.(b), S.L. 14-3.)

G.S. 105-164.4(a)(12) – Sales and Use Tax Imposed on the Prepaid Meal Plan: This is a new subdivision and provides "[t]he general State rate [and any applicable local and transit rates of sales and use tax apply] to the sales price of or gross receipts derived from a prepaid meal plan. A bundle that includes a prepaid meal plan is taxable in accordance with G.S. 105-164.4D." G.S. 105-164.4D is a new section and will be discussed later in this document.

(Effective May 29, 2014 and applies to gross receipts derived from a prepaid meal plan sold or billed after July 1, 2014; HB 1050, s. 4.1.(b), S.L. 14-3.)

G.S. 105-164.4(a)(13) – Sales and Use Tax Imposed on Tangible Personal Property Sold to a Real Property Contractor: This is a new subdivision and provides "[t]he general [State and applicable local and transit] rate[s] of [sales and use] tax appl[y] to the sales price of tangible personal property sold to a real property contractor for use by the real property contractor in erecting structures, building on, or otherwise improving, altering, or repairing real property. These sales are taxed in accordance with G.S. 105-164.4H." G.S. 105-164.4H is a new section and will be expounded upon later in this document.

(Effective January 1, 2015, and applies to sales on or after that date and contracts entered into on or after that date; HB 1050, s. 7.1.(b), S.L. 14-3.)

G.S. 105-164.4(a)(14) – Sales of Piped Natural Gas by Gas Cities: This is a new subdivision with an expiration date of July 1, 2015 that provides "[n]otwithstanding subdivision (9) of this subsection, the rate of three and one-half percent (3.5%) applies to the gross receipts derived from sales of piped natural gas (i) received by a gas city for consumption by that city and (ii) delivered by a gas city to a sales customer or transportation customer of the gas city. For purposes of this subdivision, the following definitions apply:

a. Gas city. – A city in this State that operated a piped natural gas distribution system as of July 1, 1998. These cities are Bessemer City, Greenville, Kings Mountain, Lexington, Monroe, Rocky Mount, Shelby, and Wilson.
b. Sales customer. – An end user who does not have direct access to an interstate gas pipeline and whose piped natural gas is delivered by the seller of the gas.
c. Transportation customer. – An end user who does not have direct access to an interstate gas pipeline and whose piped natural gas is delivered by a person who is not the seller of the gas."

(Effective July 1, 2014, and expires July 1, 2015, and applies to the gross receipts of piped natural gas billed on or after July 1, 2014, and before July 1, 2015; SB 790, s. 1.(a), S.L. 14-39.)

G.S. 105-164.4(a)(14a) – Sales of Electricity by Cape Hatteras Electric Membership Corporation: This is a new subdivision with an expiration date of July 1, 2015 that provides "[n]otwithstanding subdivision (9) of this subsection, the rate of three and one-half percent (3.5%) applies to the gross receipts derived from sales of electricity by Cape Hatteras Electric Membership Corporation." See the earlier discussion for G.S. 105-164.4(a)(9) for the rate of sales and use tax applicable to the gross receipts of electricity billed by Cape Hatteras Electric Membership on or after July 1, 2015.

(Effective July 1, 2014, and expires July 1, 2015, and applies to the gross receipts of electricity billed on or after July 1, 2014, and before July 1, 2015; SB 790, s. 1.(a), S.L. 14-39.)

G.S. 105-164.4(b) – The Sales and Use Tax Levied in This Section . . . : This subsection is amended to update and modernize the language. No substantial change.

(Effective May 29, 2014; HB 1050, s. 14.8., S.L. 14-3.)

G.S. 105-164.4(c) – Certificate of Registration: This subsection is amended to provide that a facilitator liable for sales and use tax under G.S. 105-164.4F must obtain a certificate of registration.

(Effective May 29, 2014; HB 1050, s. 14.8., S.L. 14-3.)

G.S. 105-164.4B(g) – Sourcing Principles for Prepaid Meal Plan: This is a new subsection which provides that gross receipts derived from a prepaid meal plan are sourced to the location where the food or prepared food is available to be consumed by the person. The Department notes that G.S. 105-164.4B(g) was also enacted by the General Assembly for purposes of sourcing admission charges but has been advised by General Assembly staff that the Codifier of Statutes will resolve the conflict.

(Effective May 29, 2014 and applies to gross receipts derived from a prepaid meal plan sold or billed after July 1, 2014; HB 1050, s. 4.1.(c), S.L. 14-3.)

G.S. 105-164.4B(h) – Sourcing Principles for Admissions: This is a new subsection which provides that gross receipts derived from an admission charge, as defined in G.S. 105-164.4G, are sourced to the location where admission to the entertainment activity may be gained by a person. When the location where admission may be gained is not known at the time of the receipt of the gross receipts for an admission charge, the general sourcing principles in G.S. 105-164.4B(a) apply. The Department notes that G.S. 105-164.4B(g) was also enacted by the General Assembly for purposes of sourcing prepaid meal plans but has been advised by General Assembly staff that the Codifier of Statutes will resolve the conflict.

(Effective May 29, 2014 and applies to gross receipts derived from an admission charge sold at retail on or after that date; HB 1050, s. 5.1.(b), S.L. 14-3.)

G.S. 105-164.4D(a) – Bundled Transaction Sales and Use Tax Application for Prepaid Meal Plan: This subsection is amended to add two bundling rules in conjunction with a prepaid meal plan and provides:

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

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

(Effective May 29, 2014 and applies to gross receipts derived from a prepaid meal plan sold or billed after July 1, 2014; HB 1050, s. 4.1.(d), S.L. 14-3.)

G.S. 105-164.4F – Accommodation Rentals: This is a new section that is referenced in the discussion of G.S. 105-164.4(a)(3), which was amended effective June 1, 2014. The majority of the language of this new section was included in G.S. 105-164.4(a)(3) prior to its amendment, effective June 1, 2014. This new section provides guidance and

detail regarding the levy of the general State and applicable local and transit rates of sales and use tax on gross receipts derived from the rental of an accommodation that a person occupies or has the right to occupy. Effect: Statutory language was enacted to clarify that it is the intent of the General Assembly that a rental of a private residence, cottage, or similar accommodation listed with a real estate broker or agent is subject to the general State, local, transit sales and use taxes and to the local occupancy taxes and that the fewer than 15 days in a calendar year exemption does not apply to such rental.

A retailer is not liable for an undercollection of sales tax or occupancy tax if the retailer has made a good-faith effort to comply with the law and collect the proper amount of sales tax and has, due to the change under this section undercollected the amount of sales tax or occupancy tax that is due on the rental of a private residence, cottage, or similar accommodation listed with and rented by a rental estate agent or broker for the period June 1, 2012 through July 1, 2014. While the legislation includes language that a retailer is not liable for an overcollection of sales tax or occupancy tax for the period beginning June 14, 2012 and ending July 1, 2014, the provisions of G.S. 105-164.11(a) provide “[w]hen [sales and use] tax is collected for any period on a taxable sale in excess of the total amount that should have been collected or is collected on an exempt or nontaxable sale, the total amount collected must be remitted to the Secretary. As such an overcollection of sales tax on the rental of a private residence, cottage, or similar accommodation listed with a real estate broker or agent and rented for fewer than 15 days in a calendar year for the period beginning June 14, 2012 and ending June 1, 2014 or for such rentals on or after June 1, 2014 must be remitted to the Secretary.

(Effective June 1, 2014, and applies to gross receipts derived from the rental of an accommodation that a person occupies or has the right to occupy on or after that date; HB 1050, s. 8.1.(b) and 8.1.(c), S.L. 14-3.)

G.S. 105-164.4G – Entertainment Activity: This is a new section that is referenced in G.S. 105-164.4(a)(10) which is effective January 1, 2014 and amended effective May 29, 2014. This new section provides guidance and detail regarding the application of the general State and applicable local and transit rates of sales and use tax to gross receipts derived for the right to attend an entertainment activity and provides:

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

(1) *Admission charge.* – Gross receipts derived for the right to attend an entertainment activity. The term includes a charge for a single ticket, a multi-occasion ticket, a seasonal pass, and an annual pass; a membership fee that provides for admission; a cover charge; a surcharge; a convenience fee, a processing fee, a facility charge, a facilitation fee, or similar charge; or any other charges included in gross receipts derived from admission.

(2) *Amenity.* – A feature that increases the value or attractiveness of an entertainment activity that allows a person access to items that are not

subject to [sales and use] tax under this Article and that are not available with the purchase of admission to the same event without the feature. The term includes parking privileges, special entrances, and access to areas other than general admission, mascot visits, and merchandise discounts. The term does not include any charge for food, prepared food, and alcoholic beverages subject to [sales and use] tax under this Article.

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

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

b. A movie, motion picture, or film.

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

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

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

(b) [Sales and Use] Tax. – The gross receipts derived from an admission charge to an entertainment activity are taxed at the general [State and applicable local and transit] rate[s] set in G.S. 105-164.4. The [sales and use] tax is due and payable by the retailer in accordance with G.S. 105-164.16. For purposes of the [sales and use] tax imposed by this section, the retailer is the applicable person listed below:

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

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

(c) Facilitator. – A facilitator must report to the retailer with whom it has a contract the admission charge a consumer pays to the facilitator for an entertainment activity. The facilitator must send the retailer the portion of the gross receipts the facilitator owes the retailer and the [sales and use] tax due on the gross receipts derived from an admission charge no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the [sales and use] tax due on the gross receipts derived from an admission charge is liable for the amount of [sales and use] tax the facilitator fails to send to the retailer. A facilitator is not liable for [sales and use] tax sent to a retailer but not remitted by the retailer to the Secretary. [Sales and use] 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 [sales and use] tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for [sales and use] tax due but not received from a facilitator. The requirements imposed by this subsection on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

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

(e) Exceptions. – The [sales and use] tax imposed by this section does not apply to the following:

(1) An amount paid for the right to participate in sporting activities. Examples of these types of charges include bowling fees, golf green fees, and gym memberships.
(2) Tuition, registration fees, or charges to attend instructional seminars, conferences, or workshops for educational purposes.
(3) A political contribution.
(4) A charge for lifetime seat rights, lease, or rental of a suite or box for an entertainment activity, provided the charge is separately stated on an invoice or similar billing document given to the purchaser at the time of sale.
(5) An amount paid solely for transportation.

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

(1) The portion of a membership charge that is deductible as a charitable contribution under section 170 of the Code.
(2) A donation that is deductible as a charitable contribution under section 170 of the Code.
(3) Charges for an amenity. If charges for amenities are separately stated on a billing document given to the purchaser at the time of the sale, then the [sales and use] tax does not apply to the separately stated charges for amenities. If charges for amenities are not separately stated on the billing document given to the purchaser at the time of the sale, then the transaction is a bundled transaction and taxed in accordance with G.S. 105-164.4D except that G.S. 105-164.4D(a)(3) does not apply.
(4) An event that is sponsored by an elementary or secondary school. For purposes of this exemption, the term ‘school’ is an entity regulated under Chapter 115C of the General Statutes.
(5) An event sponsored solely by a nonprofit entity that is exempt from [sales and use] tax under Article 4 of this Chapter if all of the following conditions are met:

a. The entire proceeds of the activity are used exclusively for the entity's nonprofit purposes.
b. The entity does not declare dividends, receive profits, or pay salary or other compensation to any members or individuals.
c. The entity does not compensate any person for participating in the event, performing in the event, placing in the event, or producing the event. For purposes of this subdivision, the term ‘compensate’ means any remuneration included in a person's gross income as defined in section 61 of the Code.

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

(Effective May 29, 2014 and applies to gross receipts derived from an admission charge sold at retail except for G.S. 105-164.4G(f)(4) and G.S. 105-164.4G(f)(5), as enacted by subsection of this section, will become effective January 1, 2015, and applies to gross receipts derived from an admission charge sold at retail on or after that date; HB 1050, s. 5.1.(c), S.L. 14-3.)

G.S. 105-164.4H – Real Property Contractors: This is a new section that is referenced in G.S. 105-164.4(a)(13), which is effective January 1, 2015. This new section provides:

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

(b) Retailer-Contractor. – This section applies to a retailer-contractor when the retailer-contractor acts as a real property contractor. A retailer-contractor that purchases tangible personal property to be installed or affixed to real property may purchase items exempt from [sales and use] tax under a certificate of exemption pursuant to G.S. 105-164.28 provided the retailer-contractor also purchases inventory items from the seller for resale. When the tangible personal property is withdrawn from inventory and installed or affixed to real property, use tax must be accrued and paid on the retailer-contractor's purchase price of the tangible personal property. Tangible personal property that the retailer-contractor withdraws from inventory for use that does not

become part of real property is also subject to the [sales and use] tax imposed by this Article.

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

(c) Erroneous Collection if Separately Stated. – An invoice or other documentation issued to a consumer at the time of the sale by a real property contractor shall not separately state any amount for [sales and use] tax. Any amount for [sales and use] tax separately stated on an invoice or other documentation given to a consumer by a real property contractor is an erroneous collection and must be remitted to the Secretary, and the provisions of G.S. 105-164.11(a)(2) do not apply.

A seller who collected and remitted sales or use tax in accordance with an interpretation of the law by the Secretary in the form of a rule, bulletin, or directive published before the effective date of this act is not liable to a purchaser for any overcollected sales or use tax that was collected in accordance with the rule, bulletin, or directive.

(Effective January 1, 2015, and applies to sales on or after that date and contracts entered into on or after that date; HB 1050, s. 7.1.(c), 7.2.(a), 7.2.(b), S.L. 14-3.) This act shall not be construed to affect the interpretation of any statute that is the subject of a State tax audit pending as of the effective date of this act or litigation that is a direct result of such audit.)

G.S. 105-164.4I – Service Contracts: This is a new section that is referenced in G.S. 105-164.4(a)(11), which was effective January 1, 2014 and amended effective October 1, 2014. This new section provides guidance and detail regarding the levy of general State and applicable local and transit rates of sales and use tax on the sales price of or the gross receipts derived from a service contract and provides:

(a) [Sales and Use] Tax. – The sales price of or the gross receipts derived from a service contract or the renewal of a service contract sold at retail is subject to the general [State] rate of [sales and use] tax set in G.S. 105-164.4 [and the applicable local and transit rates of sales and use tax] and is sourced in accordance with the sourcing principles in G.S. 105-164.4B. The retailer of a service contract is required to collect the [sales and use] tax due at the time of the retail sale of the contract and is liable for payment of the [sales and use] tax. The [sales and use] tax is due and payable in accordance with G.S. 105-164.16.

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

(1) When a service contract is sold at retail to a purchaser by the obligor under the contract, the obligor is the retailer.
(2) When a service contract is sold at retail to a purchaser by a facilitator on behalf of the obligor under the contract, the facilitator is the retailer unless the provisions of subdivision (3) of this subsection apply.
(3) When a service contract is sold at retail to a purchaser by a facilitator on behalf of the obligor under the contract and there is an agreement between the facilitator and the obligor that states the obligor will be liable for the payment of the [sales and use] tax, the obligor is the retailer. The facilitator must send the retailer the [sales and use] tax due on the sales price of or gross receipts derived from the service contract no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the [sales and use] tax due on the sales price or gross receipts is liable for the amount of [sales and use] tax the facilitator fails to send. A facilitator is not liable for [sales and use] tax sent to a retailer but not remitted by the retailer to the Secretary. [Sales and use] 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 [sales and use] tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for [sales and use] 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 agreement between the retailer and the facilitator.

(b) Exemptions. – The [sales and use] tax imposed by this section does not apply to the sales price of or the gross receipts derived from a service contract applicable to any of the following items:
(1) An item exempt from [sales and use] tax under this Article, other than a motor vehicle exempt from [sales and use] tax under G.S. 105-164.13(32).
(2) A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.
(3) An item purchased by a professional motorsports racing team for which the team may receive a sales tax refund under G.S. 105-164.14A(5).
(4) An item subject to tax under Article 5F of Chapter 105 of the General Statutes.

(c) Exceptions. – The [sales and use] tax does not apply to the sales price of or the gross receipts derived from a service contract for tangible personal property sold at retail that is or will become a part of real property unless the service contract is sold by the obligor or by a third party or facilitator on behalf of the obligor at the same time as the item of tangible personal property covered in the service contract. The [sales and use] tax imposed by this section does not apply to a security or similar monitoring contract for real property or to a renewal of a service contract where the tangible personal

property becomes a part of or affixed to real property prior to the effective date of the renewal.

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

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

(Effective October 1, 2014 and applies to gross receipts derived from a service contract sold at retail on or after that date; HB 1050, s. 6.1.(c), S.L. 14-3.)

G.S. 105-164.6(f) – Complementary Use Tax and Registration: This subsection is amended to clarify when a person must obtain a certificate of registration in accordance with G.S. 105-164.29. As amended, the subsection provides that a person who is a facilitator that is liable for sales and use tax pursuant to G.S. 105-164.4F must obtain a certificate of registration.

(Effective May 29, 2014; HB 1050, s. 14.9.(a), S.L. 14-3.)

MISCELLANEOUS ITEMS

G.S. 105-164.10 – Retail Sales and Use Tax Calculation: This section is renamed from "Retail bracket system" to "Retail tax calculation" and is amended to read "[f]or the convenience of the retailer in collecting the tax due under this Article, the Secretary must prescribe tables that compute the tax due on sales by rounding off the amount of [sales and use] tax due to the nearest whole cent. The Secretary must issue a separate table for each rate of tax that may apply to a sale."

(Effective January 1, 2014; HB 998, s. 5.(e), S.L. 13-316.)

G.S. 105-164.11A – Refund of Sales and Use Tax Paid on Rescinded Sale or Cancellation of Service: This is a new section which provides for certain refunds of sales and use tax on a rescinded sale or cancelled service or a cancellation of a service contract. The new section provides:

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

(b) Service Contract. – When a service contract is cancelled and a purchaser receives a refund, in whole or in part, of the sales price paid for the service contract, the purchaser may receive a refund of the pro rata amount of the sales [and use] tax paid based on the taxable amount of the sales price refunded as provided in this subsection:

(1) Refund from retailer. – If the purchaser receives a refund on any portion of the sales price for a service contract purchased from the retailer required to remit the [sales and use] tax on the retail sale of the service contract, then the provisions of subsection (a) of this section apply.

(2) Refund application. – If the purchaser receives a refund on any portion of the sales price for a service contract from a person other than the retailer required to remit the [sales and use] tax on the retail sale of the service contract, then the amount refunded to the purchaser by the person does not have to include the sales [and use] tax on the taxable amount of the refund. If the amount refunded to the purchaser by the person does not include the sales [and use] tax paid, then the purchaser may apply to the Department for a refund of the pro rata amount of the [sales and use] tax paid based on the taxable amount of the service contract refunded to the purchaser. The application for a refund by a purchaser must be made on a form prescribed by the Secretary, supported by documentation on the taxable amount of the service contract refunded to the purchaser from the person who refunded that amount, and filed within 30 days after the purchaser receives a refund. An application for a refund filed by the purchaser after the due date is barred. [Sales and use] taxes for which a refund is allowed directly to the purchaser for sales [and use] tax paid on a service contract are not an overpayment of [sales and use] tax and do not accrue interest as provided in G.S. 105-241.21.

(Effective October 1, 2014 and applies to gross receipts derived from a service contract sold at retail on or after that date; HB 1050, s. 6.1.(d), S.L. 14-3.)

EXEMPTIONS AND EXCLUSIONS

G.S. 105-164.13 – Exemptions and Exclusions: The 2013 and 2014 General Assembly repealed some exemptions and enacted clarifying changes to other exemptions. The changes and their effective dates are as follows:

Items sold to a farmer – (1). This exemption is repealed. However, this exemption is incorporated into a new section, G.S. 105-164.13E, with the exception of a horse or a mule.

(Effective July 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.3.(b), S.L. 13-316.)

Sales of the following to a farmer . . . – (1a). This exemption is repealed. However, this exemption is incorporated into a new section, G.S. 105-164.13E and only exempt when purchased by a qualifying or conditional farmer.

(Effective July 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.3.(b), S.L. 13-316.)

Electricity sold to a farmer . . . – (1b). This exemption is repealed. However, this exemption is incorporated into a new section, G.S. 105-164.13E and only exempt when purchased by a qualifying or conditional farmer.

(Effective July 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.3.(b), S.L. 13-316.)

Substances used on animals or plants – (2a). This exemption is repealed. However, this exemption is incorporated into a new section, G.S. 105-164.13E and only exempt when purchased by a qualifying or conditional farmer.

(Effective July 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.3.(b), S.L. 13-316.)

Baby chicks and poults . . . – (4a). This exemption is repealed. However, this exemption is incorporated into a new section, G.S. 105-164.13E and only exempt when purchased by a qualifying or conditional farmer.

(Effective July 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.3.(b), S.L. 13-316.)

Items concerning the housing, raising, or feeding of animals – (4c). This exemption is repealed. However, this exemption is incorporated into a new section, G.S. 105-164.13E and only exempt when purchased by a qualifying or conditional farmer or as otherwise noted in the discussion of G.S. 105-164.13E.

(Effective July 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.3.(b), S.L. 13-316.)

Any of the following tobacco items . . . – (4d). This exemption is repealed. However, this exemption is incorporated into a new section, G.S. 105-164.13E and only exempt when purchased by a qualifying or conditional farmer or as otherwise noted in the discussion of G.S. 105-164.13E.

(Effective July 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.3.(b), S.L. 13-316.)

Nutritional supplements . . . – (13c). This exemption for "[n]utritional supplements sold by a chiropractic physician at a chiropractic office to a patient as part of the patient's plan of treatment, as authorized by G.S. 90-151.1," is repealed. Effective January 1, 2014, sales of nutritional supplements sold by a chiropractic office to a patient as part of the patient's plan of treatment are subject to the general State rate of tax of 4.75% and applicable local and transit rates of sales and use tax.

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.2.(a), S.L. 13-316.)

Food sold . . . – (26). This exemption is amended to replace "public or private school cafeteria" with "a nonpublic or public school, including a charter school and a regional school." The 2014 General Assembly amended this exemption and the amended language and provides an exemption for "[f]ood and prepared food sold within the school building during the regular school day. For purposes of this exemption, the term 'school' is an entity regulated under Chapter 115C of the General Statutes."

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.2.(b), S.L. 13-316. Effective May 29, 2014 and applies to gross receipts derived from a prepaid meal plan sold or billed after July 1, 2014; HB 1050, s. 4.1.(e), S.L. 14-3)

Prepared food and food . . . – (27). This exemption for "[p]repared food and food served to students in dining rooms regularly operated by State or private educational institutions or student organizations thereof" is repealed. Effective January 1, 2014, prepared food and food served to students in dining rooms regularly operated by State or private educational institutions or student organizations are subject to the general State rate of tax of 4.75% and applicable local and transit rates of sales and use tax. See the discussion for G.S. 105-164.4(a)(12) – Sales and Use Tax Imposed on the Prepaid Meal Plan, effective May 29, 2014 and that applies to gross receipts derived from a prepaid meal plan sold or billed after July 1, 2014.

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.2.(a), S.L. 13-316.)

Bread, rolls, and buns sold at a bakery thrift store . . . – (27a). This exemption is repealed. Effective July 1, 2014, sales of bread, rolls, and buns by a retail outlet of a bakery are subject to the general State rate of tax of 4.75% and applicable local and transit rates of sales and use tax.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 998, s. 3.4.(a), S.L. 13-316.)

Sales of newspapers . . . – (28). This exemption for "[s]ales of newspapers by newspaper street vendors, by newspaper carriers making door-to-door deliveries, and by means of vending machines" is repealed. Effective January 1, 2014, sales of newspapers by street vendors and newspaper carriers are subject to the general State rate of tax of 4.75% and applicable local and transit rates of sales and use tax. Effective January 1, 2014, sales of newspapers through coin operated vending machines are subject to tax on 50% of the sales price at the general State rate of tax of 4.75% and applicable local and transit rates of sales and use tax. See the discussion for Sales from coin-operated vending machines . . . – (50), later in this document regarding the application of sales and use tax to newspapers sold through coin-operated vending machines on or after October 1, 2014.

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.2.(a), S.L. 13-316.)

Sales from vending machines where price is one cent per sale . . . – (30). This exemption is repealed.

(Effective October 1, 2014 and applies to sales made on or after that date; HB 1050, s. 8.3.(a), S.L. 14-3.)

Sales of items by a nonprofit, civic, . . . – (34). This exemption is amended to provide that this exemption does not apply to gross receipts derived from an admission charge to an entertainment activity.

Specific exemptions in G.S. 105-164.13(60) may apply to admission charges to an entertainment activity prior to January 1, 2015 or specific exemptions in G.S. 105-164.4G(f) may apply effective January 1, 2015.

(Effective May 29, 2014 and applies to gross receipts derived from an admission charge sold at retail on or after that date; HB 1050, s. 5.1.(e), S.L. 14-3.)

Sales of items by a nonprofit, civic, . . . – (35). This exemption is amended to provide that this exemption does not apply to gross receipts derived from an admission charge to an entertainment activity.

Specific exemptions in G.S. 105-164.13(60) may apply to admission charges to an entertainment activity prior to January 1, 2015 or specific exemptions in G.S. 105-164.4G(f) may apply effective January 1, 2015.

(Effective May 29, 2014, and applies to gross receipts derived from an admission charge sold at retail on or after that date; HB 1050, s. 5.1.(e), S.L. 14-3.)

Piped natural gas – (44). This exemption is repealed. See the discussion for G.S. 105-164.4(a)(9) – Sales of Electricity and Piped Natural Gas, earlier in this document for additional information.

(Effective July 1, 2014 and applies to gross receipts billed on or after that date; HB 998, s. 4.1.(d), S.L. 13-316.)

Sales from coin-operated vending machines . . . – (50). This exemption is amended to add "newspapers" as an item subject to general State and applicable local and transit rates of sales and use tax on 100% of the gross receipts. The exemption as rewritten provides an exemption from sales and use tax for "[f]ifty percent (50%) of the sales price of tangible personal property sold through a coin-operated vending machine, other than tobacco and newspapers." The result is that newspapers sold through a coin-operated vending machine no longer qualify for an exemption on 50% of the sales price.

(Effective October 1, 2014 and applies to sales made on or after that date; HB 1050, s. 8.3.(b), S.L. 14-3.)

Admission charges to . . . – (60). This exemption is added and provides an exemption from sales and use tax for:

> Admission charges to any of the following entertainment activities:
>
> a. An event that is held at an elementary or secondary school and is sponsored by the school.
> b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.
> c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from [sales and use] tax under Article 4 of this Chapter [105] and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to the first two activities sponsored by the entity during a calendar year.
> d. A youth athletic contest sponsored by a nonprofit entity that is exempt from [sales and use] tax under Article 4 of this Chapter [105]. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age at the time of enrollment.
> e. A State attraction. A State attraction is a physical place supported with State funds that offers cultural, educational, historical, or recreational

> opportunities. The term ‘State funds’ has the same meaning as defined in G.S. 143C-1-1.

The 2014 General Assembly amended this exemption and the amended language from S.L. 14-3 and states: “[g]ross receipts derived from an admission charge to an entertainment activity are exempt as provided in G.S. 105-164.4G.” As a result, the specific exemptions in G.S. 105-164.13(60) will be subject to [sales and use] tax unless there is an exemption in G.S. 105-164.4G(f) effective January 1, 2015.

(Effective January 1, 2014 and applies to admissions purchased on or after that date. For admissions to a live event, the sales and use tax applies to the initial sale or resale of tickets occurring on or after that date; gross receipts received on or after January 1, 2014 for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1; HB 998, s. 5.(c), S.L. 13-316; HB 14, s. 58.(e), S.L. 13-414. Effective January 1, 2015, and applies to gross receipts derived from an admission charge sold at retail on or after that date; HB 1050, s. 5.1.(d), S.L. 14-3.)

A service contract for tangible personal property . . . – (61). This exemption is added and provides an exemption from sales and use tax to:

> A service contract for tangible personal property that is provided for any of the following:
>
> a. An item exempt from [sales and use] tax under this Article, other than an item exempt from [sales and use] tax under G.S. 105-164.13(32).
> b. A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.
> c. An item purchased by a professional motorsports racing team for which the team may receive a sales [and use] tax refund under G.S. 105-164.14A(5).

The 2014 General Assembly amended this exemption and the amended language from S.L. 14-3 states: “[a] service contract for tangible personal property may be exempt as provided in G.S. 105-164.4I.”

All items exempt prior to October 1, 2014 continue to remain exempt as provided in G.S. 105-164.4I.

(Effective January 1, 2014 and applies to sales on or after that date; HB 998, s. 6.(c), S.L. 13-316; HB 14, s. 58.(e), S.L. 13-414. Effective October 1, 2014 and applies to gross receipts derived from a service contract sold at retail on or after that date; HB 1050, s. 6.1.(e), S.L. 14-3.)

An item to maintain or repair tangible personal property pursuant to a service contract . . . – (62). This adds an exemption from sales and use tax for “[a]n item used to maintain or repair tangible personal property pursuant to a service contract if the

purchaser of the contract is not charged for the item." The intent of the exemption is to provide that sales and use tax is not due on an item that is transferred to a customer and included in the sales price of a service contract.

The 2014 General Assembly amended this exemption and the amended language from S.L. 14-3 states: "[a]n item used to maintain or repair tangible personal property or a motor vehicle pursuant to a service contract if the purchaser of the contract is not charged for the item. This exemption does not apply to an item used to maintain or repair tangible personal property pursuant to a service contract exempt from [sales and use] tax under G.S. 105-164.4I(b). For purposes of this exemption, the term 'item' does not include a tool, equipment, supply, or similar tangible personal property used to complete the maintenance or repair and that is not deemed to be a component or repair part of the tangible personal property or motor vehicle for which a service contract is sold to a purchaser."

(Effective January 1, 2014 and applies to sales on or after that date; HB 998, s. 6.(c), S.L. 13-316. Effective October 1, 2014 and applies to gross receipts derived from a service contract sold at retail on or after that date; HB 1050, s. 6.1.(f), S.L. 14-3.)

Food sold . . . – (63). This adds an exemption from sales and use tax for "[f]ood and prepared food to be provided to a person entitled to the food and prepared food under a prepaid meal plan subject to [sales and use] tax under G.S. 105-164.4(a)(12)."

(Effective May 29, 2014 and applies to gross receipts derived from a prepaid meal plan sold or billed after July 1, 2014; HB 1050, s. 4.1.(e), S.L. 14-3.)

Sales price of a modular home or manufactured home . . . – (64). This adds an exemption for "[f]ifty percent (50%) of the sales price of a modular home or a manufactured home, including all accessories attached when delivered to the purchaser." For purposes of this exemption the sale occurs when the modular home or manufactured home is delivered to the purchaser notwithstanding a sales document may have been executed between the retailer and the purchaser on a date other than the date of delivery.

(Effective September 1, 2014 and applies to sales on or after that date; SB 744, s. 37.3.(a), S.L. 14-100.)

G.S. 105-164.13C – Sales and Use Tax Holiday: This section is repealed.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 998, s. 3.4.(a), S.L. 13-316.)

G.S. 105-164.13D – Sales and Use Tax Holiday for Energy Star Qualified Products: This section is repealed.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 998, s. 3.4.(a), S.L. 13-316.)

G.S. 105-164.13E – Exemption for Farmers: This is a new section that codifies a number of exemptions from G.S. 105-164.13 in effect for sales prior to July 1, 2014, and the new statute simultaneously defines a “qualifying farmer” who can purchase a qualifying item without payment of sales and use tax.

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and 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. A qualifying farmer is a farmer who has an annual gross income of ten thousand dollars ($10,000) or more from farming operations for the preceding calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

(1) Fuel and electricity that is measured by a separate meter or another separate device and used for a purpose other than preparing food, heating dwellings, and other household purposes.
(2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.
(3) Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term ‘machinery’ includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.
(4) A container used in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals or used in packaging and transporting the farmer's product for sale.
(5) A grain, feed, or soybean storage facility and parts and accessories attached to the facility.
(6) Any of the following substances when purchased for use on animals or plants, as appropriate, held or produced for commercial purposes. This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:
    a. Remedies, vaccines, medications, litter materials, and feeds for animals.
    b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
    c. Defoliants for use on cotton or other crops.
    d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.
    e. Semen.
(7) Baby chicks and poults sold for commercial poultry or egg production.
(8) Any of the following items concerning the housing, raising, or feeding of animals:

a. A commercially manufactured facility to be used for commercial purposes for housing, raising, or feeding animals or for housing equipment necessary for these commercial activities. The exemption also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the facility.
b. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities. The exemption also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the enclosure or a structure.

(9) A bulk tobacco barn or rack, parts and accessories attached to the tobacco barn or rack, and any similar apparatus, part, or accessory used to cure or dry tobacco or another crop.

The 2013 General Assembly added the above section, which was to become effective July 1, 2014. On May 29, 2014, the 2014 General Assembly amended the statute as explained below. The effective date for the amended G.S.105-164.13E remains July 1, 2014.

(Effective July 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.3.(a), S.L. 13-316.)

G.S. 105-164.13E – Exemption for Farmers: This section is amended to add two subsections: qualifying farmer exemption and conditional farmer exemption. In the "qualifying farmer" exemption subdivision, the dollar threshold was amended to broaden the threshold requirement by adding three year average annual gross income calculation. The purpose of adding the conditional exemption subsection is to provide that a person who does not meet the definition of the term "qualifying farmer," may apply to the Department for a conditional farmer exemption certificate number. A person issued a conditional farmer exemption certificate bearing an exemption number issued by the Department may purchase qualifying items exempt from sales and use tax to the same extent as a "qualifying farmer." The two new subsections read as:

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

threshold for three consecutive taxable years or ceases to engage in farming operations. The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in farming operations. For purposes of this section, an item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals:

(b) Conditional Exemption. – A person who does not meet the definition of a qualifying farmer in subsection (a) of this section may apply to the Department for a conditional exemption certificate under G.S. 105-164.28A. A person with a conditional exemption certificate is allowed to purchase items exempt from sales and use tax to the same extent as a qualifying farmer under subsection (a) of this section. To receive a conditional exemption certificate under this subsection, the person must certify that the person intends to engage in farming operations, as that term is described in subsection (a) of this section, and that the person will timely file State and federal income tax returns that reflect income and expenses incurred from farming operations during the taxable years that the conditional exemption certificate applies.

A conditional exemption certificate issued under this subsection is valid for the taxable year in which the certificate is issued and the following two taxable years, provided the person to whom the certificate is issued provides copies of applicable State and federal income tax returns to the Department within 90 days following the end of each taxable year covered by the conditional exemption certificate. A conditional exemption certificate issued under this subsection may not be extended or renewed beyond the original three-year period. The Department may not issue a conditional exemption certificate to a person who has had a conditional exemption certificate issued under this subsection during the prior 15 taxable years.

A person who purchases items with a conditional exemption certificate must maintain documentation of the items purchased and copies of State and federal income tax returns that reflect activities from farming operations for the period of time covered by the conditional exemption certificate for three years following the expiration of the conditional exemption certificate. The Secretary may require a person who has a conditional exemption certificate to provide any other information requested by the Secretary to verify the person met the conditions of this subsection. A person who fails to provide the information requested by the Secretary in a timely manner or who fails to meet the requirements of this subsection becomes liable for any taxes for which an exemption under this subsection was claimed. The taxes become due and payable at the expiration of the conditional exemption certificate, and interest accrues from the date of the original purchase. Additionally, where the person does not timely provide the information requested by the Secretary, the misuse of exemption certificate penalty in G.S. 105-236(a)(5a) applies to each seller identified by the Department from which the person made a purchase.

The following statements address the general administration of G.S. 105-164.13E during the transition of phasing out of existing agricultural exemption certificate numbers issued prior to July 1, 2014 and issuing qualifying farmer certificate exemption numbers and conditional farmer certificate exemption numbers on or after July 1, 2014 and prior to October 1, 2014.

> A person who has an agricultural exemption certificate number issued prior to July 1, 2014, that meets the requirements of G.S. 105-164.13E for a qualifying farmer should apply for a new agricultural exemption certificate number before July 1, 2014, for use for qualifying purchases made on or after October 1, 2014. A person that meets the requirements of G.S. 105-164.13E for a qualifying farmer and who has an agricultural exemption certificate number issued prior to July 1, 2014, may continue to use that agricultural exemption certificate number for qualifying purchases made prior to October 1, 2014.
>
> A person who has an agricultural exemption certificate number issued before July 1, 2014, that does not meet the requirements of G.S. 105-164.13E for a qualifying farmer must give notice to a seller that the person no longer qualifies for an exemption for purchases made on or after July 1, 2014, and the seller must collect any [sales and use] tax due on the sale. A seller that relies on a copy of an agricultural certificate of exemption and meets the requirements of G.S. 105-164.28 is not liable for any [sales and use] tax due on the sale.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 1050, s. 3.1.(a), 3.1.(d), 3.1.(e), S.L. 14-3.)

REFUNDS AUTHORIZED FOR CERTAIN PERSONS

G.S. 105-164.14(b) – Cap on Refunds for Nonprofit Entities and Hospital Drugs: This subdivision is amended to add "[t]he aggregate annual refund amount allowed an entity under this subsection for a fiscal year may not exceed thirty-one million seven hundred thousand dollars ($31,700,000)." The amount applies to refunds of State tax only. A local aggregate annual cap is added in G.S. 105-467(b) in the amount of thirteen million three hundred thousand dollars ($13,300,000).

The 2014 General Assembly amended this exemption and the amended language provides that refunds of sales and use tax in this subsection do not apply to [sales and use] tax paid on purchases of piped natural gas, video programming, and a prepaid meal plan. Sales and use tax paid on purchases of electricity, telecommunications service and ancillary service continue to be prohibited from the refund provision provided for by this subsection.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 998, s. 3.4.(b), S.L. 13-316. Effective July 1, 2014 and applies to purchases made on or after that date; HB 1050, s. 8.2.(a), S.L. 14-3.)

G.S. 105-164.14(c) – Certain Governmental Entities: This subsection is amended to add that refunds of sales and use tax in this subsection do not apply to [sales and use] tax paid on purchases of piped natural gas, video programming, and a prepaid meal plan. Sales and use tax paid on purchases of electricity, telecommunications service and ancillary service continue to be prohibited from the refund provision provided for by the subsection.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 1050, s. 8.2.(a), S.L. 14-3.)

G.S. 105-164.14(c)(25) – Soil and Water Conservation District: This subdivision is amended to add "[a] soil and water conservation district organized under Chapter 139 of the General Statutes." The entity will qualify to file for a refund of permitted sales and use taxes beginning for the period Fiscal Year 2015-2016 for [sales and use] tax paid on qualifying purchases.

(Effective July 1, 2015 and applies to sales made on or after that date; HB 558, s. 1., S.L. 14-20.)

G.S. 105-164.14(c)(26) – District Confinement Facility: This subdivision is amended to add "[a] district confinement facility created pursuant to G.S. 153A-219, including a local act modifying G.S. 153A-219." The entity will qualify to file for a refund of permitted sales and use taxes beginning for the period Fiscal Year 2015-2016 for [sales and use] tax paid on qualifying purchases.

(Effective July 1, 2015 and applies to sales made on or after that date; HB 558, s. 1., S.L. 14-20.)

OTHER MISCELLENEOUS PROVISIONS

G.S. 105-164.15A(a) – Effective Date of Rate Changes: This section is amended to replace the term "Services" with "General Rate Items." The purpose of the amendment is to establish when a rate change becomes effective for tangible personal property, digital property, and services regardless if a taxable item is provided and billed on a monthly or other periodic basis or if a taxable item is provided and not billed on a monthly or other periodic basis.

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.2.(c), S.L. 13-316.)

G.S. 105-164.16A – Reporting Option for Prepaid Meal Plans: This is a new section that allows for an alternative reporting option for sales of prepaid meal plans. The new section states:

> This section provides a taxpayer that offers to sell a prepaid meal plan with an option concerning the method by which the sales tax will be remitted to the

Secretary and a return filed under G.S. 105-164.16. When the retailer enters into an agreement with a food service contractor by which the food service contractor agrees to provide food or prepared food under a prepaid meal plan, and the food service contractor with whom the retailer contracts is also a retailer under this Article, the retailer may include in the agreement that the food service contractor is liable for collecting and remitting the sales tax due on the gross receipts derived from the prepaid meal plan on behalf of the retailer. The agreement must provide that the [sales and use] tax applies to the allocated sales price of the prepaid meal plan paid by or on behalf of the person entitled to the food or prepaid food under the plan and not the amount charged by the food service contractor to the retailer under the agreement for the food and prepared food for the person.

A retailer who elects this option must report to the food service contractor with whom it has an agreement the gross receipts a person pays to the retailer for a prepaid meal plan. The retailer must send the food service contractor the [sales and use] tax due on the gross receipts derived from a prepaid meal plan.

(Effective May 29, 2014 and applies to gross receipts derived from a prepaid meal plan sold or billed after July 1, 2014; HB 1050, s. 4.1.(f), S.L. 14-3.)

G.S. 105-164.28A(a) and (c) – Other Exemption Certificates: This subsection is amended to harmonize language with amendments in G.S. 105-164.13E and as rewritten provides:

(a) Authorization. – The Secretary may require a person who purchases an item that is exempt from [sales and use] tax or is subject to a preferential rate of tax depending on the status of the purchaser or the intended use of the item to obtain an exemption certificate from the Department to receive the exemption or preferential rate. The Department must issue a preferential rate or use-based exemption number to a person who qualifies for the exemption or preferential rate. A person who no longer qualifies for a preferential rate or use-based exemption number must notify the Secretary within 30 days to cancel the number.

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

This section is amended to state the provisions of G.S. 105-164.28 also apply to a conditional exemption certificate issued to a person in accordance with G.S. 105-164.13E.

(c) Administration. – This section shall be administrated in accordance with G. S. 105-164.28. Additionally, the provisions of this section may apply to a conditional exemption certificate issued to a person in accordance with G.S. 105-164.13E.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 1050, s. 3.1.(b), S.L. 14-3.)

G.S. 105-164.29 – Application for Certificate of Registration by Wholesale Merchants, Retailers, and Facilitators: This section is amended to provide that a facilitator liable for [sales and use] tax under G.S. 105-164.4F must obtain a certificate of registration. This section as amended advises of the requirement for a person engaged in business in North Carolina to apply for a certificate of registration and sets out standards for issuance, term, and revocation of such a certificate of registration.

(Effective May 29, 2014; HB 1050, s. 14.9.(b), S.L. 14-3.)

G.S. 105-164.45 – Applicable Due Date When Due Date Falls on a Weekend, Holiday, or when the Federal Reserve Bank is Closed: This new section is added to conform with the Streamlined Sales and Use Tax Agreement and provides:

(a) Weekends and Holidays. – When the last day for doing an act required or permitted by this Article or Subchapter VIII of Chapter [105] falls on a Saturday, Sunday, or holiday, the act is considered to be done within the prescribed time limit if it is done on the next business day.
(b) Federal Reserve Bank Closure. – If the Federal Reserve Bank is closed on a due date that prohibits a person from making a payment by ACH debit or credit as required by this Article or Subchapter VIII of Chapter [105], the payment is timely if made on the next day the Federal Reserve Bank is open.

(Effective May 29, 2014; HB 1050, s. 14.10., S.L. 14-3.)

LOCAL SALES AND USE TAX

G.S. 105-164.44G – Distribution of Part of Sales and Use Tax on Modular Homes: This section is repealed.

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.1.(b), S.L. 13-316.)

G.S. 105-164.44K – Distribution of Part of Sales and Use Tax on Electricity to Cities: This is a new section and states:

(a) Distribution. – The Secretary must distribute to cities forty-four percent (44%) of the net proceeds of the [sales and use] tax collected under G.S. 105-164.4 on

electricity, less the cost to the Department of administering the distribution. Each city's share of the amount to be distributed is its franchise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. If the net proceeds of the [sales and use] tax allocated under this section are not sufficient to distribute the franchise tax share of each city under subsection (b) of this section, the proceeds shall be distributed to each city on a pro rata basis. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Franchise Tax Share. – The quarterly franchise tax share of a city is the total amount of electricity gross receipts franchise tax distributed to the city under repealed G.S. 105-116.1 for the same related quarter that was the last quarter in which taxes were imposed on electric power companies under repealed G.S. 105-116. The quarterly franchise tax share of a city includes adjustments made for the hold-harmless amounts under repealed G.S. 105-116. If the franchise tax share of a city, including the hold-harmless adjustments, is less than zero, then the amount is zero. The determination made by the Department with respect to a city's franchise tax share is final and is not subject to administrative or judicial review.

The franchise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-116.1 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the franchise tax share of the city is added to the amount distributed under subsection (c) of this section.
(2) If two or more cities merge or otherwise consolidate, their franchise tax shares are combined.
(3) If a city divides into two or more cities, the franchise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's franchise tax share under subsection (b) of this section. The prohibitions in G.S. 105-472(d) on the receipt of funds by a city apply to the distribution under this subsection.

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

(d) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. The Governor may not reduce or withhold the distribution.

(Effective for quarters beginning on or after July 1, 2014; HB 998, s. 4.3.(a), S.L. 13-316.)

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

(Effective May 29, 2014 and expire July 1, 2018; HB 1050, s. 14.13.(a), S.L. 14-3.)

G.S. 105-164.44K(b) – Distribution of Part of Sales and Use Tax on Electricity to Cities: This subdivision is amended to include references to the repealed provisions of G.S. 159B-27. G.S. 159B-27 relates to taxes and payments in lieu of taxes for projects jointly owned by municipalities or owned by a joint agency.

(Effective July 1, 2014, G.S. 105-164.44K(b), as enacted by Section 4.3.(a) of S.L. 2013-316; HB 112, s. 11.2., S.L. 13-363.)

G.S. 105-164.44K(b) – Distribution of Part of Sales and Use Tax on Electricity to Cities: The Department of Revenue must determine the quarterly franchise tax share a city is eligible to receive under this subdivision for each quarter of the fiscal year on or before September 15 for the fiscal year that began the preceding July 1. The Department must include all amended franchise tax returns under G.S. 105-116 processed by the Department by the preceding July 31 in the franchise tax share determination. The determination made by the Department with respect to the city's franchise tax share for that fiscal year is final. The distributions are payable as provided in this subdivision.

(Effective May 29, 2014 and expires July 1, 2018; HB 1050, s. 14.13.(b), S.L. 14-3.)

Section 3 of Chapter 347 of the 1965 Session Laws: This is amended and states "Sec. 3. All property owned by Cape Hatteras Electric Membership Corporation is exempt from property taxes to the same extent as property owned by any county or municipality of the State so long as the property is owned by Cape Hatteras Electric Membership Corporation and is held and used by it solely for the furnishing of electric energy to consumers on Hatteras Island and Ocracoke Island. Cape Hatteras Electric

Membership Corporation is subject to any other taxes to the same extent as other electric membership corporations established under Chapter 117 of the General Statutes."

(Effective July 1, 2014; HB 998, s. 4.5.(a), S.L. 13-316.)

G.S. 105-164.44L – Distribution of Part of Sales and Use Tax on Piped Natural Gas to Cities: This is a new section and states:

a) Distribution. – The Secretary must distribute to cities twenty percent (20%) of the net proceeds of the [sales and use] tax collected under G.S. 105-164.4 on piped natural gas, less the cost to the Department of administering the distribution. Each city's share of the amount to be distributed is its excise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. If the net proceeds of the [sales and use] tax allocated under this section are not sufficient to distribute the excise tax share of each city under subsection (b) of this section, the proceeds shall be distributed to each city on a pro rata basis. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Excise Tax Share. – The quarterly excise tax share of a city that is not a gas city is the amount of piped natural gas excise tax distributed to the city under repealed G.S. 105-187.44 for the same related quarter that was the last quarter in which taxes were imposed on piped natural gas under repealed Article 5E of this Chapter. The Secretary must determine the excise tax share of a gas city and divide that amount by four to calculate the quarterly distribution amount for a gas city. The excise tax share of a gas city is the amount the gas city would have received under repealed G.S. 105-187.44 for the last year in which taxes were imposed under repealed Article 5E of this Chapter if piped natural gas consumed by the city or delivered by the city to a customer had not been exempt from tax under repealed G.S. 105-187.41(c)(1) and (c)(2). A gas city must report the information required by the Secretary to make the distribution under this section in the form, manner, and time required by the Secretary. For purposes of this subsection, the term 'gas city' has the same meaning as defined in repealed G.S. 105-187.40. The determination made by the Department with respect to a city's excise tax share is final and is not subject to administrative or judicial review.

The excise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-187.44 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the excise tax share of the city is added to the amount distributed under subsection (c) of this section.

(2) If two or more cities merge or otherwise consolidate, their excise tax shares are combined.

(3) If a city divides into two or more cities, the excise tax share of the city that divides is allocated among the new cities in proportion to

the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's excise tax share under subsection (b) of this section. The prohibitions in G.S. 105-472(d) on the receipt of funds by a city apply to the distribution under this subsection.

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

(d) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. The Governor may not reduce or withhold the distribution.

(Effective for quarters beginning on or after July 1, 2014; HB 998, s. 4.3.(a), S.L. 13-316.)

G.S. 105-164.44L – Distribution of Part of Sales and Use Tax on Piped Natural Gas to Cities: All amended returns under G.S. 105-187.41 must be filed within three years from the due date of the original return. The Department must process amended returns under G.S. 105-187.41 within six months of receipt of the return. When the Department processes an amended excise tax return under G.S. 105-187.41 that changes the amount of the tax attributable to a city so that the amount that should have been distributed to that city under G.S. 105-187.44 for distributions made on or before September 30, 2014, is greater than or less than the amount actually distributed to that city, the Department of Revenue must adjust the next quarterly distribution under this section for the city by the applicable amount and redetermine the excise tax share for that city based upon the amended return in accordance with subsection (b) of this section. The Department of Revenue must draw the funds needed to make an increased distribution from sales and use tax collections under Article 5 of Chapter 105 of the General Statutes.

(Effective May 29, 2014 and expires July 1, 2018; HB 1050, s. 14.13.(c), S.L. 14-3.)

G.S. 105-164.44L(a) – Distribution of Part of Sales and Use Tax on Piped Natural Gas to Cities: This subsection is amended and provides:

(a) Distribution. – The Secretary must distribute to cities twenty percent (20%) of the net proceeds of the [sales and use] tax collected under G.S. 105-164.4 on piped natural gas, less the cost to the Department of administering the distribution. Each city's share of the amount to be distributed is its excise tax share calculated under subsection (b) of this section plus its ad valorem share

calculated under subsection (c) of this section. A gas city will also receive an amount calculated under subsection (b1) of this section as part of its excise tax share. If the net proceeds of the [sales and use] tax allocated under this section are not sufficient to distribute the excise tax share of each city under subsection (b) of this section, section and the gas city share under subsection (b1) of this section, the proceeds shall be distributed to each city on a pro rata basis. The Secretary must make the distribution within 75 days after the end of each quarter.

(Effective for quarters beginning on or after July 1, 2015; HB 790, s. 1.(c), S.L. 14-39.)

G.S. 105-164.44L – Distribution of Part of Sales and Use Tax on Piped Natural Gas to Cities: The Department of Revenue must determine the quarterly excise tax share a city is eligible to receive under G.S. 105-164.44L(b) for each quarter of the fiscal year on or before September 15 for the fiscal year that began the preceding July 1. The Department must include all amended excise tax returns under G.S. 105-187.41 processed by the Department by the preceding July 31 in the excise tax share determination. The determination made by the Department with respect to the city's franchise tax share for that fiscal year is final. The distributions are payable as provided in G.S. 105-164.44L.

(Effective May 29, 2014 and expire July 1, 2018; HB 1050, s. 14.13.(d), S.L. 14-3.)

G.S. 105-164.44L(b) – Distribution of Part of Sales and Use Tax on Piped Natural Gas to Cities: This subsection is amended and provides:

(b) Excise Tax Share. – The quarterly excise tax share of a city that is not a gas city is the amount of piped natural gas excise tax distributed to the city under repealed G.S. 105-187.44 for the same related quarter that was the last quarter in which taxes were imposed on piped natural gas under repealed Article 5E of this Chapter. The determination made by the Department with respect to a city's excise tax share is final and is not subject to administrative or judicial review.

The excise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-187.44 is adjusted as follows:

(1) If a city dissolves and is no longer incorporated, the excise tax share of the city is added to the amount distributed under subsection (c) of this section.
(2) If two or more cities merge or otherwise consolidate, their excise tax shares are combined.
(3) If a city divides into two or more cities, the excise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(Effective for quarters beginning on or after July 1, 2014; HB 790, s. 1.(b), S.L. 14-39.)

G.S. 105-164.44L(b1) – Distribution of Part of Sales and Use Tax on Piped Natural Gas to Cities: This subsection is added and states:

(b1) Gas Cities. – In addition to the excise tax share calculated under subsection (b) of this section, a gas city shall receive as part of its excise tax share a distribution calculated under this subsection. The Secretary must determine the amount the gas city would have received under repealed G.S. 105-187.44 for the last year in which taxes were imposed under repealed Article 5E of this Chapter if piped natural gas consumed by the city or delivered by the city to a customer had not been exempt from tax under repealed G.S. 105-187.41(c)(1) and G.S. 105-187.41(c)(2), excluding any amount received under subsection (b) of this section, and divide that amount by four to calculate the quarterly distribution amount for a gas city under this subsection. A gas city must report the information required by the Secretary to make the distribution under this section in the form, manner, and time required by the Secretary. The determination made by the Department with respect to a gas city's share under this subsection is final and is not subject to administrative or judicial review. For purposes of this section, the term ‘gas city’ is a city in this State that operated a piped natural gas distribution system as of July 1, 1998. These cities are Bessemer City, Greenville, Kings Mountain, Lexington, Monroe, Rocky Mount, Shelby, and Wilson.

(Effective for quarters beginning on or after July 1, 2015; HB 790, s. 1.(d), S.L. 14-39.)

G.S. 105-164.44L(c) – Distribution of Part of Sales and Use Tax on Piped Natural Gas to Cities: This subsection is amended and provides:

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

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

(Effective May 29, 2014; HB 1050, s. 14.13.(e), S.L. 14-3.)

G.S. 105-467(a) – Scope of Sales Tax: This section is amended to establish that sales of manufactured homes and modular homes are not subject to the local and transit sales and use rates of tax, even though these items are subject to the general State sales and use rate of tax under G.S. 105-164.4.

(Effective January 1, 2014 and applies to sales made on or after that date; HB 998, s. 3.1.(c), S.L. 13-316.)

G.S. 105-467(a)(5b) – Scope of Sales Tax: This subdivision is repealed in conjunction with the repeal of G.S. 105-164.13(27a) and removes the local sales and use tax exemption for bread, rolls, and buns that are sold at a bakery thrift store.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 998, s. 3.4.(d), S.L. 13-316.)

G.S. 105-467(b) – Exemptions and Refunds: This subsection is amended to repeal the local sales and use tax exemptions applicable to "the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D" as a result of the repeal of both State sales and use tax holidays.

The statute as amended also provides the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under Article 39 of Chapter 105.

In addition, the statute is amended and provides "[t]he aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen million three hundred thousand dollars ($13,300,000)."

As amended the refunds are due either semi-annually (G.S. 105-164.14) or six months after the end of the State's fiscal year (G.S. 105-164.14A).

The 2014 General Assembly amended this subsection and the amended language is in the next two paragraphs.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 998, s. 3.4.(c), S.L. 13-316.)

G.S. 105-467(b) – Exemptions and Refunds: This subsection is amended to add that refunds in this subsection do not apply to purchases of piped natural gas, video programming, and a prepaid meal plan. Any sales and use tax on purchases of electricity, telecommunications service and ancillary service continue to be prohibited from the refund provision provided for by this subsection. A statutory reference was also corrected.

(Effective July 1, 2014 and applies to purchases made on or after that date; HB 1050, s. 8.2.(b), S.L. 14-3.)

G.S. 105-467(b) – Exemptions and Refunds: This subsection is amended to add the provisions for “[a] refund of an excessive or erroneous State sales tax collection allowed under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be levied and imposed under this Article.”

(Effective October 1, 2014 and applies to gross receipts derived from a service contract sold at retail on or after that date; HB 1050, s. 6.1.(i), S.L. 14-3.)

G.S. 105-523(a) and (b) – County Hold Harmless from Repealed Local Taxes Effective July 1, 2014: These subsections are amended and read as:

(a) Intent. – It is the intent of the General Assembly that each county benefit by at least three hundred seventy-five thousand dollars ($375,000) annually from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

…

(2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less three hundred seventy-five thousand dollars ($375,000). A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

(Effective July 1, 2014; SB 744, s. 37.2.(a), S.L. 14-100.)

G.S. 105-523(a) and (b) – County Hold Harmless from Repealed Local Taxes Effective July 1, 2015: These subsections are amended and read as:

(a) Intent. – It is the intent of the General Assembly that each county benefit by at least two hundred fifty thousand dollars ($250,000) annually from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

…

(2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less two hundred fifty thousand dollars ($250,000). A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes

made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

(Effective July 1, 2015; SB 744, s. 37.2.(b), S.L. 14-100.)

G.S. 105-523(a) and (b) – County Hold Harmless from Repealed Local Taxes Effective July 1, 2016: These subsections are amended and read as:

(a) Intent. – It is the intent of the General Assembly that each county benefit by at least one hundred twenty-five thousand dollars ($125,000) annually from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

…

(2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year, less one hundred twenty-five thousand dollars ($125,000). A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

(Effective July 1, 2016; SB 744, s. 37.2.(c), S.L. 14-100.)

G.S. 105-523(a) and (b) – County Hold Harmless from Repealed Local Taxes Effective July 1, 2017: These subsections are amended and read as:

(a) Intent. – It is the intent of the General Assembly that each county be held harmless from the exchange of a portion of the local sales and use taxes for the State's agreement to assume the responsibility for the non-administrative costs of Medicaid.

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

…

(2) Hold harmless threshold. – The amount of a county's Medicaid service costs and Medicare Part D clawback payments assumed by the State under G.S. 108A-54 for the fiscal year. A county's Medicaid service costs for fiscal years 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the changes made to the Federal Medical Assistance Percentage by section 5001 of the American Recovery and Reinvestment Act of 2009.

(Effective July 1, 2017; SB 744, s. 37.2.(d), S.L. 14-100.)

HIGHWAY USE TAX – ARTICLE 5A

G.S. 105-187.3(a) – Rate of Tax: This subsection is amended and provides any fee regulated by G.S. 20-101.1, in addition to the retail value of a motor vehicle for which a certificate of title is issued, constitutes part of the sales price on which the rate of highway use tax is due.

(Effective January 1, 2014; SB 402, s. 34.29.(a), S.L. 13-360.)

G.S. 105-187.3(a) and (a1) – Tax Base and Tax Rate: These two subsections are amended to split the previous language into a subsection for tax base and tax rate. Subsection (a) Tax Base adds the following language and states: "[t]he tax does not apply to the sales price of a service contract. The sales price of a service contract is subject to the sales tax imposed under Article 5 of . . . Chapter [105]." Subsection (a1) is added and states the tax rate for Highway Use Tax with some grammatical amendments. No substantial change.

(Effective October 1, 2014 and applies to gross receipts derived from a service contract sold at retail on or after that date; HB 1050, s. 6.1.(g), S.L. 14-3.)

G.S. 105-187.5(a) – Election: This section is amended to add guidance when there is a situation of a sale of a service contract in conjunction with a lease of a motor vehicle: "[T]he portion of a lease or rental billing or payment that represents any amount applicable to the sales price of or sales [and use] tax on a service contract sold at retail that is subject to the [sales and use] tax imposed by Article 5 of this Chapter [105] and sourced to this State should not be included in the gross receipts subject to the [sales and use] tax imposed by this Article [5]. The amount of the lease or rental billing or payment applicable to the sales price of or sales [and use] tax on a service contract sold at retail subject to the [sales and use] tax imposed by Article 5 of this Chapter [105] and sourced to the State should be separately stated on documentation given to the purchaser at the time the lease or rental agreement goes into effect, or on the monthly billing statement or other documentation given to the purchaser. "

(Effective October 1, 2014 and applies to gross receipts derived from a service contract sold at retail on or after that date; HB 1050, s. 6.1.(h), S.L. 14-3.)

PIPED NATURAL GAS TAX – ARTICLE 5E

Article 5E – Piped Natural Gas Tax: This section is repealed. Gross receipts derived from sales of piped natural gas billed on or after July 1, 2014 are subject to the combined general rate of sales and use tax of 7.00% under G.S. 105-164.4(a)(9). See the discussion for G.S. 105-164.4(a)(14) for the rate of sales and use tax applicable to certain gross receipts of piped natural gas billed on or after July 1, 2014, and before July 1, 2015.

(Effective July 1, 2014 and applies to gross receipts billed on or after that date; HB 998, s. 4.1.(d), S.L. 13-316.)

911 SERVICE CHARGE FOR PREPAID WIRELESS TELECOMMUNICATIONS SERVICE – ARTICLE 5H

G.S. 62A-54(c) – Administration: This subsection is amended and provides for the collection of tax debts for the 911 service charge for prepaid wireless telecommunications service.

(Effective July 1, 2014; SB 797, s. 2.1., S.L. 14-66.)

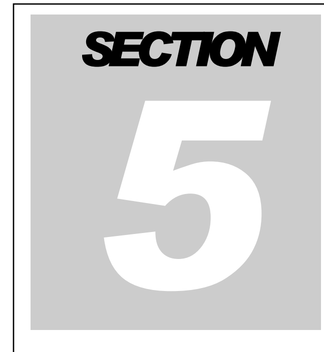
Section 8 of S.L. 2011-122: "Notwithstanding G.S. 62A-60(c), as enacted by Section 5 of this act, the Department of Revenue may retain the cost of collection not to exceed seven hundred thousand dollars ($700,000) of the 911 service charges for prepaid wireless telecommunications service remitted to it from collections by sellers of the charge for the first 12 calendar months beginning on or after July 1, 2013" has been repealed as previously amended by Section 52 of S.L. 2013-414.

(Effective July 1, 2014; SB 797, s. 2.2., S.L. 14-66.)

Section 2.3 of S.L. 2014-66: "Notwithstanding G.S. 62A-54(c), the Department may retain six hundred and forty thousand dollars ($640,000) of the 911 fee service charges for prepaid wireless telecommunications service remitted to the Department in the 2014-2015 fiscal year" has been added in order to clarify the amount of costs that can be retained by the Department.

(Effective July 1, 2014; SB 797, s. 2.3., S.L. 14-66.)

LOCAL GOVERNMENT



LOCAL GOVERNMENT

G.S. 20-63(h) - Commission Contracts for Issuance of Plates and Certificates:
Establishes that the compensation paid for the issuance of a limited registration "T" sticker and the collection of property tax are each considered a separate transaction for which compensation at the rate of one dollar and twenty-seven cents ($1.27) and seventy-one cents ($0.71), one dollar and six cents ($1.06) respectively, shall be paid by counties and municipalities as a cost of the combined motor vehicle registration renewal and property tax collection system.

(Effective March 1, 2014; HB 1050, s. 13.1-13.5, S.L. 2014-3.)

G.S. 20-79.1A - Limited Registration Plates:
(a) Eligibility. – A limited registration plate is issuable to any of the following:

(1) A person who applies, either directly or through a dealer licensed under Article 12 of this Chapter, for a title to a motor vehicle and a registration plate for the vehicle and who submits payment for the applicable title and registration fees but does not submit payment for any municipal corporation property taxes on the vehicle. A person who submits payment for municipal corporation property taxes receives an annual registration plate.

(2) A person who applies for a plate for a vehicle that was previously registered with the Division but whose registration has not been current for at least a year because the plate for the vehicle was surrendered or the vehicle's registration expired over a year ago.

(b) Form and Authorization. – A limited registration plate must be clearly and visibly designated as "temporary." The plate expires on the last day of the second month following the date of application of the limited registration plate. The plate may be used only on the vehicle for which it is issued and may not be transferred, loaned, or assigned to another. If the plate is lost or stolen, the vehicle for which the plate was issued may not be operated on a highway until a replacement limited registration plate or a regular license plate is received and attached to the vehicle.
(c) Registration Certificate. – The Division is not required to issue a registration certificate for a limited registration plate. A combined tax and registration notice issued under G.S. 105-330.5 serves as the registration certificate for the plate.

(Effective May 29, 2014; HB 1050, s. 14.24, S.L. 2014-3.)

G.S.105-164.14(c) - Sales Tax Refunds for Soil and Water Conservation Districts and Regional Jails: Adds a soil and water conservation district organized under Chapter 139 of the General Statutes and a district confinement facility created pursuant to G.S. 153A-219, including a local act modifying G.S. 153A-219 to those agencies allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service.

(Effective July 1, 2015; HB 558, s. 1, S.L. 2014-20.)

G.S. 105-275 - Exclusion of Unpermitted Energy Mineral Interest from Property Tax: (47) Energy mineral interest in property for which a permit has not been issued under G.S. 113-395. For the purposes of this subdivision, "energy mineral" has the same meaning as in G.S. 105-187.71.

(Effective May 29, 2014; SB 786, s. 18, S.L. 2014-4.)

Study of Taxation of Energy Minerals for Property Tax Purposes: The Local Government Division of the Department of Revenue shall study how other states value energy minerals for the purpose of property taxation. The Division shall establish guidelines for counties to ensure the consistent and fair taxation of energy minerals throughout the State. The Local Government Division shall report its findings to the Joint Legislative Commission on Energy Policy by January 1, 2015.

(Effective May 29, 2014; SB 786, s. 20, S.L. 2014-4.)

Study of Property Taxation of Energy Minerals: The Joint Legislative Commission on Energy Policy shall study how the development of the oil and gas industry in the State would affect the property tax revenues of local governments. The study shall examine how the presence of energy minerals will affect property enrolled in the present use value program. The study shall also study ways to limit the growth of property tax revenues that result from increased property valuations due to the development of the oil and gas industry in the State. The Commission shall report to the 2015 General Assembly on its findings and recommendations, including any legislative recommendations.

(Effective May 29, 2014; SB 786, s. 21 S.L. 2014-4.)

G.S. 105-277.15A - Taxation of Site Infrastructure Land:
(b) Requirements. – Land qualifies as site infrastructure land if it meets the following size and use requirements:
  (1) Size. – The land must consist of at least 100 contiguous acres.
  (2) Use. – The land must meet all of the following requirements:
    a. It must be zoned for industrial use, office use, or both.

b. A building permit for a primary building or structure must not have been issued for the land, and there is no primary building or structure on the land.

(c) Deferred Taxes. – An owner may defer a portion of tax imposed on site infrastructure land that represents the sum of the following: (i) the increase in value of the property attributable solely to improvements made to the site infrastructure land, if any, and (ii) the difference between the true value of the site infrastructure land as it is currently zoned and the value of the site infrastructure land as if it were zoned the same as it was in the calendar year prior to the time the application for property tax relief under this section was filed.

(Effective July 1, 2015; SB 790, s. 2, S.L. 2014-39.)

G.S. 105-290 - Business Entity Representation: If a property owner is a business entity, the business entity may represent itself using a nonattorney representative who is one or more of the following of the business entity: (i) officer, (ii) manager or member-manager, if the business entity is a limited liability company, (iii) employee whose income is reported on IRS Form W-2, if the business entity authorizes the representation in writing, or (iv) owner of the business entity, if the business entity authorizes the representation in writing and if the owner's interest in the business entity is at least twenty-five percent (25%). Authority for and prior notice of nonattorney representation shall be made in writing, under penalty of perjury, to the Commission on a form provided by the Commission.

(Effective September 18, 2014; SB 734, s. 1, S.L. 2014-120.)

G.S. 105-296(m) - Transportation Corridor: The section is rewritten to require the assessor shall annually review the transportation corridor official maps and amendments to them filed with the register of deeds pursuant to Article 2E of Chapter 136 of the General Statutes.

The section is rewritten to require the assessor shall annually review the transportation corridor official maps and amendments to them filed with the register of deeds pursuant to Article 2E of Chapter 136 of the General Statutes.

(Effective July 1, 2015; HB 1050, s. 14.19, S.L. 2014-3.)

G.S. 105-309(d) - Listing of Personal Property: This section reads as rewritten: (d) Personal property shall be listed to indicate the township and municipality, if any, in which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by an abstract form approved by the Department of Revenue. The assessor may require additional information as follows:

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

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

(Effective July 1, 2015; HB 1050, s. 14.20(a), S.L. 2014-3.)

G.S. 105-315 - Reports Report by Persons Having Custody of Tangible Personal Property of Others:

(a) As of January 1, every person having custody of taxable tangible personal property that has been entrusted to the person by another for storage, sale, renting, or any other business purpose shall furnish to the assessor of the county in which the property is situated a report with the information listed in this subsection. This requirement does not apply to a person having Page 44 Session Law 2014-3 House Bill 1050-Ratified custody of inventories exempt under G.S. 105-275(32a), 105-275(33), or 105-275(34). As used in this section, the term "person having custody of taxable tangible personal property" includes warehouses, cooperative growers' and marketing associations, consignees, factors, commission merchants, and brokers. The report must include all of the following:

(1) Repealed by Session Laws 1987, c. 813, s. 14.
(2) The name of the owner of the property.
(3) A description of the property.
(4) The quantity of the property.
(5) The amount of money, if any, advanced against the property by the person having custody of the property.

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

(Effective July 1, 2015; HB 1050, s. 14.21, S.L. 2014-3.)

G.S. 105-320(a)(16) - Is Repealed:

(Effective July 1, 2015; HB 1050, s. 14.20(b), S.L. 2014-3.)

G.S. 105-333-339.1 - Appraisal of Property of Public Service Companies:

This section adds mobile telecommunications companies and tower aggregator companies to the list of property which is required to be appraised by the NC Department of Revenue.

(Effective July 1, 2015; HB 1050, s. 11.1, S.L. 2014-3.)

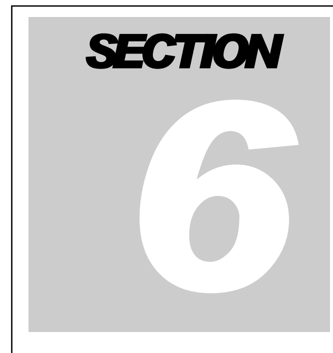
G.S. 161-31 - Payment of Delinquent Property Taxes: Adds Bladen County, Columbus County, Franklin County, and Hoke County to the list of counties authorized to require the payment of delinquent property taxes before recording deeds conveying property.

(Effective June 28, 2014; SB 741, s. 1, S.L. 2014-29.)

Payment of Delinquent Property Taxes: Adds Town of Elk Park, to the list of Towns in Avery County authorized to require the payment of delinquent property taxes before recording deeds conveying property

(Effective July 16, 2014; HB 1114, s. 1, S.L. 2014-69.)

GENERAL ADMINISTRATION



GENERAL ADMINISTRATION

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

This subdivision was amended to update the reference to the Internal Revenue Code from January 2, 2013 to December 31, 2013. Notwithstanding the effective date, any amendments to the Internal Revenue Code enacted after January 2, 2013 that increase North Carolina taxable income for the 2013 taxable year become effective for the tax year 2014.

(Effective May 29, 2014, HB 1050, s. 14.16(a), S.L. 14-3.)

G.S. 105-236(a)(3) – Failure to File Penalty: When a taxpayer fails to file a return on the date it is due, the Department assesses a failure to file penalty equal to five percent (5%) of the amount of tax for every month the return is late, not to exceed twenty-five percent (25%). The 2012 General Assembly amended this subdivision to eliminate a $5 minimum penalty. As amended, the failure to file penalty is calculated on the appropriate percentage of tax regardless of the result.

(Effective January 1, 2014, SB 826, s. 2.18(a), S.L. 12-79.)

G.S. 105-236(a)(4) – Failure to Pay Penalty: When a taxpayer fails to pay any tax when due, without intent to evade the tax, the Department assesses a failure to pay penalty equal to ten percent (10%) of the tax. The 2012 General Assembly amended this subdivision to eliminate a $5 minimum penalty. As amended, the failure to pay penalty is calculated on the appropriate percentage regardless of the result.

(Effective January 1, 2014, SB 826, s. 2.18(a), S.L. 12-79.)

G.S. 105-236(a)(5a) – Misuse of Exemption Certificate: This subdivision was rewritten to conform the language of the statute to replace “resale” with “exemption” and to replace “farmer’s” with “conditional exemption.”

(Effective July 1, 2014 and applies to purchases made on or after that date, HB 1050, s. 3.1(c), S.L. 14-3.)

G.S. 105-236.1(a)(3) – Criminal Offenses: This subdivision was amended to make one technical change and one substantive change. The technical change corrects a statutory reference. Specifically, the term “trafficking in stolen identities” was incorrectly referenced in subparagraph (c2) as G.S. 14-133.20A. The correct statutory reference is G.S. 14-113.20A. The substantive change adds a new criminal offense to the list of offenses for which the Secretary of Revenue may appoint employees of the Criminal Investigations Division to serve as revenue law enforcement officers. The added criminal offense is for the possession, transfer, or use of an automated sales suppression device.

(Effective May 29, 2014, HB 1050, s. 14.12, S.L. 14-3.)

G.S. 105-241.6(b) – Exceptions to Statute of Limitations for Refunds: This subsection was amended to add new subdivision (5) to the list of exceptions to the general statute of limitations for obtaining a refund of an overpayment.

Subdivision (5) includes a “contingent event” as an exception to the general statute of limitations for obtaining a refund of an overpayment. As amended, if a taxpayer is subject to a contingent event and files notice with the Secretary, the period to request a refund of an overpayment is six months after the date the contingent event concludes.

Subdivision 5(a) defines “contingent event” as litigation or a State tax audit initiated prior to the expiration of the statute of limitations under subsection (a) of this section, the pendency of which prevents the taxpayer from possessing the information necessary to file an accurate and definite request for a refund of an overpayment under this Chapter.

Subdivision 5(b) defines “notice to the Secretary” as written notice filed with the Secretary prior to expiration of the statute of limitations under subsection (a) of this section for a return or payment in which a contingent event prevents a taxpayer from filing a definite request for a refund of an overpayment. The notice must identify and describe the contingent event, identify the type of tax, list the return or payment affected by the contingent event, and state in clear terms the basis for and an estimated amount of the overpayment.

Subdivision 5(c) provides that a taxpayer who contends that an event or condition other than litigation or a State tax audit has occurred that prevents the taxpayer from filing an accurate and definite request for a refund of an overpayment within the period under subsection (a) of this section may submit a written request to the Secretary seeking an extension of the statute of limitations allowed under this subdivision. The request must establish by clear, convincing proof that the event or condition is beyond the taxpayer's

control and that it prevents the taxpayer's timely filing of an accurate and definite request for a refund of an overpayment. The request must be filed within the period under subsection (a) of this section. The Secretary's decision on the request is final and is not subject to administrative or judicial review.

(Effective January 1, 2014, HB 14, s. 47(a), S.L. 13-414.)

G.S. 105-241.7(b) – Procedure for Obtaining a Refund Initiated by Taxpayer: This subsection was amended to add that a taxpayer may not request a refund of an overpayment based on a contingent event as defined in G.S. 105-241.6(b)(5) until the event is finalized and an accurate and definite request for refund of an overpayment may be determined.

(Effective January 1, 2014, HB 14, s. 47(b), S.L. 13-414.)

G.S. 105-242(g) – Erroneous Lien: This subsection changed the name of the document filed by the Secretary of Revenue to release an erroneous tax lien. Currently, the Department of Revenue files a "certificate of release" that credit reporting agencies treat as a negative item on a credit report. The renamed document, "certificate of withdrawal," will cancel the original tax lien without impacting a taxpayer's credit report.

(Effective May 29, 2014, HB 1050, s. 14.17, S.L. 14-3.)

G.S. 105-242.2(a)(2)(c) – Definitions: S.L. 2013-157 made a number of changes to North Carolina's Limited Liability Company Act. Among the changes was a new defined term of "company official." This subparagraph was amended to add this new term into the definition of responsible person.

(Effective May 29, 2014, HB 1050, s. 14.18, S.L. 14-3.)

G.S. 105-242.2(b)(4) – Responsible Person: This subparagraph was amended to remove the limitation on the type of withholding taxes that can be collected from a responsible person. Prior to May 29, 2014, the Department was allowed to hold a business operator liable for income tax withheld on employee wages. As rewritten, the Department is allowed to hold business a operator liable for all income taxes required to be withheld by the business entity.

(Effective May 29, 2014, HB 1050, s. 14.18, S.L. 14-3.)

G.S. 105-243.1 – Collection of Tax Debts: This section provides for the Collection Assistance Fee and provides how it is to be used. The 2014 General Assembly made two changes to subparagraph (e)(3). First, from May 29, 2014 through June 30, 2014, the limitation on the amount of Collection Assistance Fee the Department was allowed to pay taxpayer locator services increased from $150,000 to $500,000. Then, effective July 1, 2014, the General Assembly decreased the allowable amount from $500,000 to $350,000.

(First change effective May 29, 2014, HB 1050, s. 10.1(d), S.L. 14-3.)
(Second change effective July 1, 2014, SB 744, s. 26.1, S.L. 14-100.)

G.S. 105-259(b)(15) – Disclosure of Information Concerning a Tax Imposed by Articles 2A, 2C, or 2D of Chapter 105: This subdivision was amended to reflect the transfer of Alcohol and Law Enforcement from the Department of Public Safety to the State Bureau of Investigation. The legislation deleted the reference to the Alcohol and Law Enforcement Section of the Department of Public Safety and substituted a reference to the Alcohol and Law Enforcement Branch of the State Bureau of Investigation.

(Effective July 1, 2014, SB 744, s. 17.1(xxx), S.L. 14-100.)

G.S. 105-259(b)(40a) – Disclosure to a Data Clearinghouse: This subdivision was added to permit the Department to furnish to a data clearinghouse "the information required to be released in accordance with the State's agreement under the December 2012 Term Sheet Settlement, as finalized by the State in the NPM Adjustment Settlement Agreement, concerning annual tobacco product sales by a nonparticipating manufacturer.

(Effective May 29, 2014; HB 1050, s. 9.3, S.L. 2014-3.)

G.S. 105-259(b)(45) – Disclosure to Office of the State Chief Information Officer: This subdivision was amended to permit the Department to furnish tax information to the Office of the State Chief Information Officer. The General Assembly renamed the Office of the State Controller to the Office of the State Chief Information Officer.

(Effective August 11, 2014, HB 1133, s. 56.8(e), S.L. 14-115.)

G.S. 105-259(b)(46) – Disclosure to Provider of Bond or Irrevocable Letter of Credit. This subdivision was added to permit the Department to furnish to a person who provides a bond or letter of credit to the Department on behalf of a taxpayer the information necessary to collect on the bond or letter of credit if the taxpayer does not pay the tax due which is covered by the instrument.

(Effective May 29, 2014; HB 1050, s. 9.3, S.L. 2014-3.)

G.S. 105-259(b)(47) – Disclosure to Alcoholic Beverage Control Commission: This subdivision was added to permit the Department to disclose tax information to the Alcoholic Beverage Control Commission as required under G.S. 18B-900.

(Effective May 1, 2015, HB 1050, s. 10.1(c), S.L. 14-3.)

G.S. 105-259(b)(48) – Disclosure to Furnish the Department of Environment and Natural Resources Information: This subdivision was added to permit the Department to furnish the Department of Environment and Natural Resources

information to enable the Secretary of Environment and Natural Resources to suspend permits of entities under G.S. 113-395.

(Effective July 1, 2015; SB 786, s. 17.(b), S.L. 2014-4.)

G.S. 105-260.1 – Delegation of Authority to Hold Hearings: This section was rewritten to remove the limitation on who the Secretary could delegate the authority to hold a hearing required or allowed under Chapter 105.

(Effective May 29, 2014; HB 1050, s. 9.4, S.L. 2014-3.)

G.S. 105-269.7 – Contributions of Income Tax Refund or Payment to the North Carolina Education Endowment Fund: This section was added to allow a taxpayer entitled to a refund of income taxes under Article 4 of Chapter 105 to elect to designate all or part of a refund to the North Carolina Education Endowment Fund. A taxpayer that elects to designate a refund to the Fund must designate the amount of the contribution on a designated line on the income tax return. The taxpayer's election to contribute to the Fund cannot be changed after the taxpayer files an income tax return.

In addition, the law allows any taxpayer who desires to make a contribution to the Fund the opportunity to make that contribution when the taxpayer files an income tax return. A taxpayer must use Form NC-EDU to designate the amount of the contribution and enclose the form and the contribution with the tax return.

Any monies collected by the Department for the Fund must be transmitted to the State Treasurer for credit to the North Carolina Education Endowment Fund.

Effective for taxable years beginning on or after January 1, 2014, S 744, s. 8.11(h), S.L. 14-100.)

G.S. 105A-2(2)f – Setoff Debt Collection Act - Definitions: This subparagraph was added to the definition of “debt” to limit what is considered debt owed to any school of medicine, clinical program, facility, or practice affiliated with one of the constituent institutions of The University of North Carolina that provides medical care to the general public and for The University of North Carolina Health Care System and other persons or entities affiliated with or under the control of The University of North Carolina Health Care System. The term "debt" is limited to the sum owed to one of these entities by law or by contract following adjudication of a claim resulting from an individual's receipt of hospital or medical services at a time when the individual was covered by commercial insurance, Medicaid, Health Choice, Medicare, Medicare Advantage, a Medicare supplement plan, or any other government insurance.

(Effective August 7, 2014, and applies to tax refunds determined by the Department of Revenue on or after that date, SB 744, s. 12I.4(a), S.L. 14-100.)

G.S. 105A-2(2)(9)(a) – Setoff Debt Collection Act - Definitions: This subparagraph was rewritten to define a “state agency” as, “a unit of the executive, legislative, or judicial branch of State government.”

(Effective August 7, 2014, and applies to tax refunds determined by the Department of Revenue on or after that date, SB 744, s. 12I.4(b), S.L. 14-100.)