

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 19
PROPOSED COMMITTEE SUBSTITUTE S19-PCS45047-TDx-1

Short Title: Revenue Laws Technical Changes.

(Public)

Sponsors:

Referred to:

February 4, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO VARIOUS
3 REVENUE LAWS, AS RECOMMENDED BY THE REVENUE LAWS STUDY
4 COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** Section 7.2(a) of S.L. 2014-3 reads as rewritten:

7 "SECTION 7.2.(a) This act shall not be construed to affect the interpretation of any statute
8 that is the subject of a State tax audit ~~pending as of the effective date of this act for taxable~~
9 years beginning before January 1, 2015, or litigation that is a direct result of such audit."

10 **SECTION 1.(b)** Section 7.3 of S.L. 2014-3 reads as rewritten:

11 "SECTION 7.3. This Part becomes effective January 1, 2015, and applies to withdrawals
12 of items from inventory for contracts entered into on or after that date, sales on or after that
13 date date, and contracts entered into on or after that date."

14 **SECTION 2.(a)** Section 8.1(c) of S.L. 2014-3 reads as rewritten:

15 "SECTION 8.1.(c) With respect to the change in this section regarding the rental of a
16 private residence, cottage, or similar accommodation that is rented for fewer than 15 days in a
17 calendar year and that is listed with a real estate broker or agent, the following provisions
18 apply:

19 (1) A retailer is ~~not~~ liable for an overcollection ~~or undercollection~~ of sales tax or
20 occupancy tax for the rental of such an accommodation that is occupied or
21 available to be occupied for nights beginning June 14, 2012, and ending June
22 30, 2014, and must remit the tax collected.

23 (2) A retailer is not liable for an undercollection of sales tax or occupancy tax
24 for the rental of such an accommodation that is occupied or available to be
25 occupied for nights beginning June 1, 2014, and ending June 30, 2014, if the
26 retailer has made a good-faith effort to comply with the law and collect the
27 proper amount of tax and has, due to the change under this section,
28 overcollected or undercollected the amount of sales tax or occupancy tax
29 that is due. This subsection applies only to the period beginning June 14,
30 2012, and ending July 1, 2014.tax."

31 **SECTION 2.(b)** This section becomes effective June 1, 2014.

32 **SECTION 3.** Section 14.26 of S.L. 2014-3 is repealed.

33 **SECTION 4.(a)** The purpose of this section is to clarify the intent of the 2013
34 Session of the General Assembly that the Utilities Commission must adjust the rate for sales of
35 electricity, piped natural gas, and water and wastewater services to reflect all of the tax changes
36 as enacted in S.L. 2013-316.



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1 **SECTION 4.(b)** Section 4.2(a) of S.L. 2013-316 reads as rewritten:
2 "**SECTION 4.2.(a)** Pursuant to ~~G.S. 62-31 and G.S. 62-32, the~~ The Utilities Commission
3 must adjust the rate set for the following utilities:

- 4 (1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of
5 electric power companies for the tax imposed under ~~G.S. 105-122 and for~~
6 G.S. 105-122, the increase in the rate of tax imposed on sales of electricity
7 under ~~G.S. 105-164.4~~G.S. 105-164.4, and the reduction in the corporate
8 income tax rate imposed under G.S. 105-130.3.
9 (2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the
10 General Statutes, the repeal of the credit formerly allowed under
11 G.S. 105-122(d1), ~~and~~ the resulting liability of companies for the tax
12 imposed on sales of piped natural gas under ~~G.S. 105-164.4~~G.S. 105-164.4,
13 and the reduction in the corporate income tax rate imposed under
14 G.S. 105-130.3.
15 (3) Public water and wastewater companies to reflect the repeal of G.S. 105-116
16 and the resulting liability of public water and wastewater companies under
17 G.S. 105-122, and the reduction in the corporate income tax rate imposed
18 under G.S. 105-130.3."

19 **SECTION 4.(c)** The Utilities Commission must order a utility to add interest to
20 money refunded to its customers for refunds resulting from the reduction of the corporate
21 income tax rate effective for taxable years beginning January 1, 2014, as provided in Section
22 4(b) of this act. The interest rate applied to the refund must be set in accordance with
23 G.S. 62-130.

24 **SECTION 4.(d)** Subsection (b) of this section is effective January 1, 2014.
25 Subsection (c) of this section is effective when it becomes law and applies to refunds issued on
26 or after the effective date of this act. The remainder of this section is effective when it becomes
27 law.

28 **SECTION 5.(a)** G.S. 105-113.35(d) reads as rewritten:

29 "(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships
30 tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed
31 under this Part may apply to the Secretary to be relieved of paying the tax imposed by this
32 section on the tobacco products. A manufacturer who ships vapor products to either a
33 wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be
34 relieved of paying the tax imposed by this section on the vapor products shipped to either a
35 wholesale dealer or retail dealer. Once granted permission, a manufacturer may choose not to
36 pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax
37 imposed by this section, a manufacturer must comply with the requirements set by the
38 Secretary.

39 Permission granted under this subsection to a manufacturer to be relieved of paying the tax
40 imposed by this section applies to an integrated wholesale dealer with whom the manufacturer
41 is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with
42 whom it is an affiliate when the manufacturer applies to the Secretary for permission to be
43 relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the
44 manufacturer after the Secretary has given the manufacturer permission to be relieved of
45 paying the tax.

46 If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products
47 other than cigarettes and the person is granted permission under G.S. 105-113.10 to be relieved
48 of paying the cigarette excise tax, the permission applies to the tax imposed by this section on
49 tobacco products other than cigarettes. A cigarette manufacturer who becomes a wholesale
50 dealer after receiving permission to be relieved of the cigarette excise tax must notify the

1 Secretary of the permission received under G.S. 105-113.10 when applying for a license as a
2 wholesale dealer."

3 **SECTION 5.(b)** This section becomes effective June 1, 2015.

4 **SECTION 6.** G.S. 105-129.16A reads as rewritten:

5 "**§ 105-129.16A. Credit for investing in renewable energy property.**

6 (a) Credit. – ~~If a taxpayer that has constructed, purchased, or leased renewable energy~~
7 ~~property places it in service in this State during the taxable year, the taxpayer is allowed a~~
8 ~~credit equal to thirty five percent (35%) of the cost of the property. A taxpayer that has~~
9 ~~constructed, purchased, or leased renewable energy property is allowed a credit equal to~~
10 ~~thirty-five percent (35%) of the cost of the property if the property is placed in service in this~~
11 ~~State during the taxable year. In the case of renewable energy property that serves a~~
12 ~~nonbusiness purpose, the credit must be taken for the taxable year in which the property is~~
13 ~~placed in service. For all other renewable energy property, the entire credit may not be taken~~
14 ~~for the taxable year in which the property is placed in service but must be taken in five equal~~
15 ~~installments beginning with the taxable year in which the property is placed in service. Upon~~
16 ~~request of a taxpayer that leases renewable energy property, the lessor of the property must give~~
17 ~~the taxpayer a statement that describes the renewable energy property and states the cost of the~~
18 ~~property. No credit is allowed under this section to the extent the cost of the renewable energy~~
19 ~~property was provided by public funds. For the purposes of this section, "public funds" does not~~
20 ~~include grants made under section 1603 of the American Recovery and Reinvestment Tax Act~~
21 ~~of 2009.~~

22 "...."

23 **SECTION 7.** Section 1.1(a) of S.L. 2014-3 is rewritten to read:

24 "**SECTION 1.1.(a)** G.S. 105-130.5(b), as amended by Section 14.3 of this act, reads as
25 rewritten:

26 "(b) The following deductions from federal taxable income shall be made in determining
27 State net income:

28 ...

29 (4) ~~Losses in the nature of~~ Any unused portion of a net economic loss as allowed
30 under G.S. 105-130.8A(e).losses sustained by the corporation in any or all of
31 the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A
32 corporation required to allocate and apportion its net income under the
33 provisions of G.S. 105-130.4 shall deduct its allocable and apportionable net
34 economic loss only from total income allocable and apportionable to this
35 State pursuant to the provisions of G.S. 105-130.8 This subdivision expires
36 for taxable years beginning on or after January 1, 2030.

37 (4a) A State net loss as allowed under G.S. 105-130.8A. A corporation may
38 deduct its allocable and apportionable State net loss only from total income
39 allocable and apportionable to this State.

40 "...."

41 **SECTION 8.(a)** G.S. 105-134.6A(h), as amended by S.L. 2014-3, reads as
42 rewritten:

43 "(h) Definitions. – ~~For purposes of this section, a "transferor" is an~~ The following
44 definitions apply in this section:

45 (1) Transferor. – An individual, partnership, corporation, S Corporation, limited
46 liability company, or an estate or trust that does not fully distribute income
47 to its beneficiaries, and an "owner in a transferor" is a beneficiaries.

48 (2) Owner in a transferor. – One or more of the following of a transferor:

49 a. A partner, shareholder, member, or beneficiary or member.

50 b. A beneficiary subject to tax under Part 2 or 3 of Article 4 of this
51 Chapter of a transferor.Chapter."

1 **SECTION 8.(b)** G.S. 105-153.6(h), as amended by S.L. 2014-3, reads as rewritten:
2 "(h) Definitions. – ~~For purposes of this section, a "transferor" is an~~ The following
3 definitions apply in this section:

4 (1) Transferor. – An individual, partnership, corporation, S Corporation, limited
5 liability company, or an estate or trust that does not fully distribute income
6 to its ~~beneficiaries, and an "owner in a transferor" is a~~ beneficiaries.

7 (2) Owner in a transferor. – One or more of the following of a transferor:

8 a. A partner, shareholder, ~~member, or beneficiary or member.~~

9 b. A beneficiary subject to tax under Part 2 or 3 of Article 4 of this
10 Chapter of a transferor. ~~Chapter.~~

11 **SECTION 8.(c)** Subsection (a) of this section is effective for taxable years
12 beginning on or after January 1, 2013. Subsection (b) of this section is effective for taxable
13 years beginning on or after January 1, 2014. The remainder of this section is effective when it
14 becomes law.

15 **SECTION 9.(a)** Notwithstanding G.S. 105-163.15, the Secretary of Revenue may
16 not impose interest with respect to an underpayment of income tax to the extent the
17 underpayment was created or increased by the changes made in Section 2.2 of S.L. 2014-3.
18 Notwithstanding G.S. 105-163.8, a withholding agent is not liable for the amount of tax the
19 agent fails to withhold to the extent the amount of tax not withheld was created or increased by
20 the changes made in Section 2.2 of S.L. 2014-3.

21 **SECTION 9.(b)** This section is effective when it becomes law and applies to
22 taxable years beginning on or after January 1, 2014, and before January 1, 2015, and to payroll
23 periods beginning on or after January 1, 2014, and before January 1, 2015.

24 **SECTION 10.** G.S. 105-164.3(35), as amended by Section 14.7 of S.L. 2014-3,
25 reads as rewritten:

26 "**§ 105-164.3. Definitions.**

27 The following definitions apply in this Article:

28 ...

29 (35) Retailer. – ~~A person engaged in business of any of the following:~~ Any of the
30 following persons:

31 a. ~~Making~~ A person engaged in business of making sales at retail,
32 offering to make sales at retail, or soliciting sales at retail of tangible
33 personal property, digital property, or services for storage, use, or
34 consumption in this State. When the Secretary finds it necessary for
35 the efficient administration of this Article to regard any sales
36 representatives, solicitors, representatives, consignees, peddlers, or
37 truckers as agents of the dealers, distributors, consignors,
38 supervisors, employers, or persons under whom they operate or from
39 whom they obtain the items sold by them regardless of whether they
40 are making sales on their own behalf or on behalf of these dealers,
41 distributors, consignors, supervisors, employers, or persons, the
42 Secretary may so regard them and may regard the dealers,
43 distributors, consignors, supervisors, employers, or persons as
44 "retailers" for the purpose of this Article.

45 b. ~~Delivering~~ A person engaged in business of delivering, erecting,
46 installing, or applying tangible personal property for use in this State,
47 regardless of whether the property is permanently affixed to real
48 property or other tangible personal property.

49 c. ~~Making~~ A person engaged in business of making a remote sale, if
50 one of the conditions listed in G.S. 105-164.8(b) is met.

d. A person, other than a facilitator, required to collect the tax levied under G.S. 105-164.4(a)."

SECTION 11. G.S. 105-164.4G, as enacted by S.L. 2014-3, reads as rewritten:

"§ 105-164.4G. Entertainment activity.

...

(f) Exemptions. – The sale at retail and the use, storage, or consumption in this State of the following gross receipts derived from an admission charge to an entertainment activity are specifically exempt from the tax imposed by this Article:

...

(g) Sourcing. – ~~Admission~~An admission charge 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."

SECTION 12. G.S. 105-164.13, as amended by Section 6.1(f) of S.L. 2014-3, reads as rewritten:

"§ 105-164.13. Retail sales and use tax.

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(8a) Sales to a small power production facility, as defined in 16 U.S.C. § 796(17)(A), of fuel and piped natural gas used by the facility to generate electricity.

...

(10) Sales of the following to commercial laundries or to pressing and dry cleaning establishments:

- a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.
- b. Laundry and dry-cleaning machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.
- c. ~~Fuel, other than electricity,~~ Fuel and piped natural gas used in the direct performance of the laundering or the pressing and cleaning service. The exemption does not apply to electricity.

...

(57) ~~Fuel and~~ Fuel, piped natural gas, and electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to electricity used at a facility at which the primary activity is not manufacturing.

...."

SECTION 13.(a) G.S. 105-164.13E reads as rewritten:

"§ 105-164.13E. Exemption for farmers.

(a) Exemption. – A qualifying farmer is a person who has an annual ~~gross income from farming operations~~ for the preceding taxable year of ten thousand dollars (\$10,000) or more ~~from farming operations~~ or who has an average annual ~~gross income from farming operations~~ for the three preceding taxable years of ten thousand dollars (\$10,000) or ~~more from farming operations~~. For purposes of this section, the term "income from farming operations" means sales plus any other amounts treated as gross income under the Code from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, a

1 livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in
2 G.S. 106-758. A qualifying farmer may apply to the Secretary for an exemption certificate
3 number under G.S. 105-164.28A. The exemption certificate expires when a person fails to meet
4 the income threshold for three consecutive taxable years or ceases to engage in farming
5 ~~operations.~~operations, whichever comes first.

6 The following tangible personal property, digital property, and services are exempt from
7 sales and use tax if purchased by a qualifying farmer and for use by the farmer in farming
8 operations. For purposes of this section, an item is used by a farmer for farming operations if it
9 is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of
10 dairy products, eggs, or animals:

- 11 (1) ~~Fuel and~~Fuel, piped natural gas, and electricity that is-are measured by a
12 separate meter or another separate device and used for a purpose other than
13 preparing food, heating dwellings, and other household purposes.
- 14 (2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers,
15 potting soil, baler twine, and seeds.
- 16 (3) Farm machinery, attachment and repair parts for farm machinery, and
17 lubricants applied to farm machinery. The term "machinery" includes
18 implements that have moving parts or are operated or drawn by an animal.
19 The term does not include implements operated wholly by hand or motor
20 vehicles required to be registered under Chapter 20 of the General Statutes.
- 21 (4) A container used in the planting, cultivating, harvesting, or curing of farm
22 crops or in the production of dairy products, eggs, or animals or used in
23 packaging and transporting the farmer's product for sale.
- 24 (5) A grain, feed, or soybean storage facility and parts and accessories attached
25 to the facility.
- 26 (6) Any of the following substances when purchased for use on animals or
27 plants, as appropriate, held or produced for commercial purposes. This
28 exemption does not apply to any equipment or devices used to administer,
29 release, apply, or otherwise dispense these substances:
 - 30 a. Remedies, vaccines, medications, litter materials, and feeds for
31 animals.
 - 32 b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
 - 33 c. Defoliant for use on cotton or other crops.
 - 34 d. Plant growth inhibitors, regulators, or stimulators, including systemic
35 and contact or other sucker control agents for tobacco and other
36 crops.
 - 37 e. Semen.
- 38 (7) Baby chicks and poults sold for commercial poultry or egg production.
- 39 (8) Any of the following items concerning the housing, raising, or feeding of
40 animals:
 - 41 a. A commercially manufactured facility to be used for commercial
42 purposes for housing, raising, or feeding animals or for housing
43 equipment necessary for these commercial activities. The exemption
44 also applies to commercially manufactured equipment, and parts and
45 accessories for the equipment, used in the facility.
 - 46 b. Building materials, supplies, fixtures, and equipment that become a
47 part of and are used in the construction, repair, or improvement of an
48 enclosure or a structure specifically designed, constructed, and used
49 for housing, raising, or feeding animals or for housing equipment
50 necessary for one of these commercial activities. The exemption also

1 applies to commercially manufactured equipment, and parts and
2 accessories for the equipment, used in the enclosure or a structure.

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

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

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

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

39 (c) Contract with a Farmer. – A qualifying item listed in subdivisions (5), (8), and (9) of
40 subsection (a) of this section purchased to fulfill a contract with a person who holds a
41 qualifying farmer exemption certificate or a conditional farmer exemption certificate issued
42 under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased
43 directly by the person who holds the exemption certificate. A contractor that purchases one of
44 the items allowed an exemption under this section must provide an exemption certificate to the
45 retailer that includes the name of the agricultural exemption certificate holder and the
46 agricultural exemption certificate number issued to that holder.

47 (d) Definition. – For purposes of this section, the term "taxable year" has the same
48 meaning as defined in G.S. 105-153.3."

49 **SECTION 13.(b)** This section becomes effective July 1, 2014. A contractor who
50 paid sales and use tax on an item exempt from sales and use tax pursuant to
51 G.S. 105-164.13(c), as enacted by this section, may request a refund from the retailer, and the

1 retailer may, upon issuance of the refund or credit, request a refund for the overpayment of tax
2 under G.S. 105-164.11(a)(1).

3 **SECTION 14.** G.S. 105-164.16A, as enacted by S.L. 2014-3, reads as rewritten:

4 "**§ 105-164.16A. Reporting option for prepaid meal plans.**

5 (a) Reporting Option. – This ~~section~~ subsection provides a ~~taxpayer-retailer~~ that offers
6 ~~to sell~~ a prepaid meal ~~plan-plan~~ subject to the tax imposed by G.S. 105-164.4 with an option
7 concerning the method by which the sales tax will be remitted to the Secretary and a return
8 filed under G.S. 105-164.16. When the retailer enters into an agreement with a food service
9 contractor by which the food service contractor agrees to provide food or prepared food under a
10 prepaid meal plan, and the food service contractor with whom the retailer contracts is also a
11 retailer under this Article, the retailer may include in the agreement that the food service
12 contractor is liable for ~~collecting-reporting~~ and remitting the sales tax due on the gross receipts
13 derived from the prepaid meal plan on behalf of the retailer. The agreement must provide that
14 the tax applies to the allocated sales price of the prepaid meal plan paid by or on behalf of the
15 person entitled to the food or prepaid food under the plan and not the amount charged by the
16 food service contractor to the retailer under the agreement for the food and prepared food for
17 the person.

18 A retailer who elects this option must report to the food service contractor with whom it has
19 an agreement the gross receipts a person pays to the retailer for a prepaid meal plan. The
20 retailer must send the food service contractor the tax due on the gross receipts derived from a
21 prepaid meal plan. Tax payments received by a food service contractor from a retailer are held
22 in trust by the food service contractor for remittance to the Secretary. A food service contractor
23 that receives a tax payment from a retailer must remit the amount received to the Secretary. A
24 food service contractor is not liable for tax due but not received from a retailer. A retailer that
25 does not send the food service contractor the tax due on the gross receipts derived from a
26 prepaid meal plan is liable for the amount of tax the retailer fails to send to the food service
27 contractor.

28 (b) Basis of Reporting. – A retailer must report gross receipts derived from a prepaid
29 meal plan on an accrual basis of accounting for purposes of this Article, notwithstanding that
30 the retailer reports tax on the cash basis for other sales at retail and notwithstanding that the
31 revenue has not been recognized for accounting purposes."

32 **SECTION 15.** G.S. 105-164.29(a), as amended by Section 14.9(b) of S.L. 2014-3,
33 reads as rewritten:

34 "(a) Requirement and Application. – Before a person may engage in business as a
35 retailer or a wholesale merchant or when a facilitator is liable for tax under G.S. 105-164.4F,
36 the person must obtain a certificate of registration. To obtain a certificate of registration, a
37 person must register with the Department. A person who has more than one business is required
38 to obtain only one certificate of registration for each legal entity to cover all operations of each
39 business throughout the State. An application for registration must be signed as follows:

- 40 (1) By the owner, if the owner is an individual.
41 (2) By a manager, member, or company official, partner, if the owner is an
42 association, a partnership, a limited liability company.
43 (2a) By a manager, member, or partner, if the owner is a partnership.
44 (3) By an executive officer or some other person specifically authorized by the
45 corporation to sign the application, if the owner is a corporation. If the
46 application is signed by a person authorized to do so by the corporation,
47 written evidence of the person's authority must be attached to the
48 application."

49 **SECTION 16.** G.S. 105-241.6(b)(5) reads as rewritten:

50 "(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a
51 refund of an overpayment are as follows:

- 1 ...
 2 (5) Contingent Event. – The period to request a refund of an overpayment may
 3 be extended as provided in this subdivision if an event or condition prevents
 4 the taxpayer from possessing the information necessary to file an accurate
 5 and definite request for a refund of an overpayment under this Chapter:
 6 a. If a taxpayer is subject to a contingent event and files written notice
 7 with the Secretary, the period to request a refund of an overpayment
 8 is six months after the contingent event concludes.
 9 b. ~~For purposes of this subdivision,~~ For purposes of this subdivision, a
 10 "contingent event" means litigation or a State tax audit initiated
 11 prior to the expiration of the statute of limitations under subsection
 12 (a) of this section, the pendency of which prevents the taxpayer from
 13 possessing the information necessary to file an accurate and definite
 14 request for a refund of an overpayment under this Chapter.
 15 e. ~~For purposes of this subdivision, "notice to the Secretary" means~~
 16 ~~written notice~~ The written notice to the Secretary must be filed with
 17 ~~the Secretary~~ prior to expiration of the statute of limitations under
 18 subsection (a) of this section for a return or payment in which a
 19 contingent event prevents a taxpayer from filing a definite request for
 20 a refund of an overpayment. The notice must identify and describe
 21 the contingent event, identify the type of tax, list the return or
 22 payment affected by the contingent event, and state in clear terms the
 23 basis for and an estimated amount of the overpayment.
 24 d.b. ~~A~~ If a taxpayer who contends that an event or condition other than
 25 litigation or a State tax audit a contingent event, as defined in this
 26 subdivision, has occurred that prevents the taxpayer from filing an
 27 accurate and definite request for a refund of an overpayment within
 28 the period under subsection (a) of this section, the taxpayer
 29 may submit a written request to the Secretary seeking an extension of
 30 the statute of limitations allowed under this subdivision. The request
 31 must establish by clear, convincing proof that the event or condition
 32 is beyond the taxpayer's control and that it prevents the taxpayer's
 33 timely filing of an accurate and definite request for a refund of an
 34 overpayment. The request must be filed within the period under
 35 subsection (a) of this section. The Secretary's decision on the request
 36 is final and is not subject to administrative or judicial review."

37 **SECTION 17.(a)** G.S. 105-338(c), as amended by Section 11.1(e) of S.L. 2014-3,
 38 reads as rewritten:

39 "(c) Certain Property of Bus Line, Motor Freight Carrier, ~~Airline, and Mobile~~
 40 ~~Telecommunications and Airline~~ Companies. –

- 41 ...
 42 (4) ~~The appraised valuation of the tangible personal property of a mobile~~
 43 ~~telecommunications company (excluding towers) that is appraised in~~
 44 ~~accordance with the provisions of G.S. 105-336(e) is allocated among the~~
 45 ~~local taxing units in which the property of the company is situated on~~
 46 ~~January 1 in the proportion that the original cost of the property in the taxing~~
 47 ~~unit bears to the original cost of all such property in this State."~~

48 **SECTION 17.(b)** G.S. 105-339, as amended by Section 11.1(f) of S.L. 2014-3,
 49 reads as rewritten:

50 "§ 105-339. **Certification of appraised valuations of nonsystem property and locally**
 51 **assigned rolling stock, tangible personal property of tower aggregator**

1 ~~companies, and certain—~~tangible personal property of mobile
2 telecommunications companies.

3 Having determined the appraised valuations of the nonsystem properties of public service
4 companies in accordance with subdivisions (b)(2) and (b)(3) of G.S. 105-335 and the appraised
5 valuations of locally assigned rolling stock in accordance with subdivision (c)(1) of
6 G.S. 105-335, the appraised valuations of the tangible personal property of tower aggregator
7 companies in accordance with G.S. 105-336(d) and the appraised valuations of ~~towers of the~~
8 tangible personal property of mobile telecommunications companies in accordance with
9 ~~G.S. 105-336(d),~~G.S. 105-336(c) and (d), the Department of Revenue shall assign those
10 appraised valuations to the taxing units in which such properties are situated by certifying the
11 valuations to the appropriate counties and municipalities. Each local taxing unit receiving such
12 certified valuations shall assess them at the figures certified and shall tax the assessed
13 valuations at the rate of tax levied against other property subject to taxation therein."

14 **SECTION 17.(c)** Section 11.1(g) of S.L. 2014-3 is repealed.

15 **SECTION 17.(d)** Subsection (c) of this section is effective when it becomes law.

16 The remainder of this section is effective for taxes imposed for taxable years beginning on or
17 after July 1, 2015.

18 **SECTION 18.(a)** G.S. 160A-206 reads as rewritten:

19 "**§ 160A-206. General power to impose taxes.**

20 (a) Authority. – A city shall have power to impose taxes only as specifically authorized
21 by act of the General Assembly. Except when the statute authorizing a tax provides for
22 penalties and interest, the power to impose a tax shall include the power to impose reasonable
23 penalties for failure to declare tax liability, if required, or to impose penalties or interest for
24 failure to pay taxes lawfully due within the time prescribed by law or ordinance. In determining
25 the liability of any taxpayer for a tax, a city may not employ an agent who is compensated in
26 whole or in part by the city for services rendered on a contingent basis or any other basis
27 related to the amount of tax, interest, or penalty assessed against or collected from the taxpayer.
28 The power to impose a tax shall also include the power to provide for its administration in a
29 manner not inconsistent with the statute authorizing the tax.

30 (b) Prohibition. – A city may not impose a license, franchise, or privilege tax on a
31 person engaged in any of the businesses listed in this subsection. These businesses are subject
32 to sales tax at the combined general rate for which the city receives a share of the tax revenue
33 or they are subject to the local sales tax:

34 (1) Supplying piped natural gas.

35 (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

36 (3) Providing video programming taxed under G.S. 105-164.4(a)(6).

37 (4) Providing electricity."

38 **SECTION 18.(b)** G.S. 153A-146 reads as rewritten:

39 "**§ 153A-146. General power to impose taxes.**

40 (a) Authority. – A county may impose taxes only as specifically authorized by act of
41 the General Assembly. Except when the statute authorizing a tax provides for penalties and
42 interest, the power to impose a tax includes the power to impose reasonable penalties for failure
43 to declare tax liability, if required, and to impose penalties or interest for failure to pay taxes
44 lawfully due within the time prescribed by law or ordinance. In determining the liability of any
45 taxpayer for a tax, a county may not employ an agent who is compensated in whole or in part
46 by the county for services rendered on a contingent basis or any other basis related to the
47 amount of tax, interest, or penalty assessed against or collected from the taxpayer. The power to
48 impose a tax also includes the power to provide for its administration in a manner not
49 inconsistent with the statute authorizing the tax.

50 (b) Prohibition. – A county may not impose a license, franchise, or privilege tax on a
51 person engaged in any of the businesses listed in this subsection:

- 1 (1) Supplying piped natural gas.
- 2 (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).
- 3 (3) Providing video programming taxed under G.S. 105-164.4(a)(6).
- 4 (4) Providing electricity."

5 **SECTION 19.** The Department of Revenue may draw the funds needed to make
6 the following distributions from the sales and use tax collections under Article 5 of Chapter 105
7 of the General Statutes:

- 8 (1) The September 15, 2014, distribution of the franchise tax to cities under
9 G.S. 105-116.1 for the calendar quarter that begins April 1, 2014.
- 10 (2) The September 15, 2014, distribution of the excise tax to cities under
11 G.S. 105-187.44 for the calendar quarter that begins April 1, 2014.

12 **SECTION 20.(a)** G.S. 105-153.3 reads as rewritten:

13 "**§ 105-153.3. Definitions.**

14 The following definitions apply in this Part:

- 15 ...
- 16 (18) Surviving spouse. – Defined in section 2(a) of the Code.
- 17 ~~(18)~~(19) Taxable year. – Defined in section 441(b) of the Code.
- 18 ~~(19)~~(20) Taxpayer. – An individual subject to the tax imposed by this Part.
- 19 ~~(20)~~(21) This State. – The State of North Carolina."

20 **SECTION 20.(b)** G.S. 105-153.5(a)(1) reads as rewritten:

21 "(a) **Deduction Amount.** – In calculating North Carolina taxable income, a taxpayer may
22 deduct from adjusted gross income either the standard deduction amount provided in
23 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
24 of this subsection that the taxpayer claimed under the Code. In the case of a married couple
25 filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer
26 or the taxpayer's spouse claims the itemized deductions amount:

- 27 (1) **Standard deduction amount.** – An amount equal to the amount listed in the
28 table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly jointly/surviving spouse	\$15,000
Head of Household	12,000
Single	7,500
Married, filing separately	7,500."

34 **SECTION 20.(c)** G.S. 105-134.1 reads as rewritten:

35 "**§ 105-134.1. Definitions.**

36 The following definitions apply in this Part:

- 37 ...
- 38 (15a) Surviving spouse. – Defined in section 2(a) of the Code.
- 39 "

40 **SECTION 20.(d)** G.S. 105-134.6(a2) reads as rewritten:

41 "(a2) **Deduction Amount.** – In calculating North Carolina taxable income, a taxpayer may
42 deduct either the North Carolina standard deduction amount for that taxpayer's filing status or
43 the itemized deductions amount claimed under the Code. The North Carolina standard
44 deduction amount is the lesser of the amount shown in the table below or the amount allowed
45 under the Code. In the case of a married couple filing separate returns, a taxpayer may not
46 deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims itemized
47 deductions for State purposes.

48 A taxpayer that deducts the standard deduction amount under this subsection and is entitled
49 to an additional deduction amount under section 63(f) of the Code for the aged or blind may
50 deduct an additional amount under this subsection. The additional amount the taxpayer may
51 deduct is six hundred dollars (\$600.00) in the case of an individual who is married and seven

1 hundred fifty dollars (\$750.00) in the case of an individual who is not married and is not a
 2 surviving spouse. The taxpayer is allowed the same number of additional amounts that the
 3 taxpayer claimed under the Code for the taxable year.

4 Filing Status	Standard Deduction
5 Married, filing jointly jointly/ 6 <u>surviving spouse</u>	\$6,000
7 Head of Household	4,400
8 Single	3,000
9 Married, filing separately	3,000."

10 **SECTION 20.(e)** Subsections (a) and (b) of this section are effective for taxable
 11 years beginning on or after January 1, 2014. Subsections (c) and (d) of this section are effective
 12 retroactively for taxable years beginning on or after January 1, 2012, and before January 1,
 13 2014. The remainder of this section is effective when it becomes law.

14 **SECTION 21.** G.S. 105-164.13B(a)(4) reads as rewritten:

15 "(a) State Exemption. – Food is exempt from the taxes imposed by this Article unless the
 16 food is included in one of the subdivisions in this subsection. The following food items are
 17 subject to tax:

- 18 ...
- 19 (4) Prepared food, other than bakery items sold without eating utensils by an
 20 artisan bakery. The term "bakery item" includes bread, rolls, buns, biscuits,
 21 bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins,
 22 bars, cookies, and tortillas. An artisan bakery is a bakery that meets all of the
 23 following requirements:
- 24 a. It derives over eighty percent (80%) of its gross receipts from bakery
 25 items.
 - 26 b. Its annual gross receipts, combined with the gross receipts of all
 27 related ~~persons as defined in G.S. 105-163.010, persons,~~ do not
 28 exceed one million eight hundred thousand dollars (\$1,800,000). For
 29 purposes of this subdivision, the term "related person" means a
 30 person described in one of the relationships set forth in section
 31 267(b) or 707(b) of the Code."

32 **SECTION 22.(a)** G.S. 105-153.4 reads as rewritten:

33 **"§ 105-153.4. North Carolina taxable income defined.**

34 (a) Residents. – For an individual who is a resident of this State, the term "North
 35 Carolina taxable income" means the taxpayer's adjusted gross income as modified in
 36 G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A.~~ G.S. 105-153.6.

37 (b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable
 38 income" means the taxpayer's adjusted gross income as modified in G.S. 105-153.5 and
 39 ~~G.S. 105-153.6 and G.S. 105-134.6A,~~ G.S. 105-153.6, multiplied by a fraction the denominator
 40 of which is the taxpayer's gross income as modified in G.S. 105-153.5 and ~~G.S. 105-153.6 and~~
 41 ~~G.S. 105-134.6A,~~ G.S. 105-153.6, and the numerator of which is the amount of that gross
 42 income, as modified, that is derived from North Carolina sources and is attributable to the
 43 ownership of any interest in real or tangible personal property in this State, is derived from a
 44 business, trade, profession, or occupation carried on in this State, or is derived from gambling
 45 activities in this State.

46 (c) Part-year Residents. – If an individual was a resident of this State for only part of
 47 the taxable year, having moved into or removed from the State during the year, the term "North
 48 Carolina taxable income" has the same meaning as in subsection (b) of this section except that
 49 the numerator includes gross income, as modified under G.S. 105-153.5 and ~~G.S. 105-153.6~~
 50 ~~and G.S. 105-134.6A,~~ G.S. 105-153.6, derived from all sources during the period the individual
 51 was a resident.

1 (d) S Corporations and Partnerships. – In order to calculate the numerator of the
2 fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share
3 of S Corporation ~~income~~income, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is
4 includable in the numerator is the shareholder's pro rata share of the S Corporation's income
5 attributable to the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of
6 the fraction provided in subsection (b) of this section for a member of a partnership or other
7 unincorporated business that has one or more nonresident members and operates in one or more
8 other states, the amount of the member's distributive share of the total net income of the
9 ~~business~~business, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is includable in the
10 numerator is determined ~~by multiplying the total net income of the business by the ratio~~
11 ~~ascertained under the~~ in accordance with the provisions of G.S. 105-130.4. As used in this
12 subsection, total net income means the entire gross income of the business less all expenses,
13 taxes, interest, and other deductions allowable under the Code that were incurred in the
14 operation of the business.

15 (e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis
16 of the taxable year used in computing the taxpayer's income tax liability under the Code."

17 **SECTION 22.(b)** G.S. 105-153.5 is amended by adding a new subsection to read:

18 "(c1) Other Additions. – S Corporations subject to the provisions of Part 1A of this
19 Article, partnerships subject to the provisions of this Part, and estates and trusts subject to the
20 provisions of Part 3 of this Article must add any amount deducted under section 164 of the
21 Code as state, local, or foreign income tax."

22 **SECTION 22.(c)** This section is effective for taxable years beginning on or after
23 January 1, 2015.

24 **SECTION 23.(a)** G.S. 105-164.13, as amended by Section 6.1(f) of S.L. 2014-3,
25 reads as rewritten:

26 **"§ 105-164.13. Retail sales and use tax.**

27 The sale at retail and the use, storage, or consumption in this State of the following tangible
28 personal property, digital property, and services are specifically exempted from the tax imposed
29 by this Article:

30 ...

31 (62) An item used to maintain or repair tangible personal property or a motor
32 vehicle pursuant to a service contract taxable under this Article if the
33 purchaser of the contract is not charged for the item. ~~This exemption does~~
34 ~~not apply to an item used to maintain or repair tangible personal property~~
35 ~~pursuant to a service contract exempt from tax under G.S. 105-164.4I(b).~~ For
36 purposes of this exemption, the term "item" does not include a tool,
37 equipment, supply, or similar tangible personal property used to complete
38 the maintenance or repair and that is not deemed to be a component or repair
39 part of the tangible personal property or motor vehicle for which a service
40 contract is sold to a purchaser.

41"

42 **SECTION 23.(b)** G.S. 105-187.52(c) reads as rewritten:

43 "(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this
44 Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or
45 repair tangible personal property pursuant to a service contract exempt from tax under
46 G.S. 105-164.4I(b)(4)."

47 **SECTION 23.(c)** Notwithstanding G.S. 105-164.13(62), as amended by S.L.
48 2014-3 and by subsection (a) of this section, the sales and use tax exemption in
49 G.S. 105-164.13(62) applies to an item used pursuant to a service contract that meets the
50 definition of a "service contract" as defined in G.S. 105-164.3(38b), notwithstanding that the

1 service contract was sold before January 1, 2014, and effective on, before, or after January 1,
2 2014.

3 **SECTION 23.(d)** Subsections (a) and (b) of this section become effective October
4 1, 2014. The remainder of this section is effective when it becomes law.

5 **SECTION 24.(a)** Purpose. – The purpose of this section is to extend the statute of
6 limitations for requesting a refund of State income taxes to conform to federal tax treatment of
7 the rollover of an airline payment amount by a qualified airline employee to a traditional or
8 Roth IRA so as to prevent double taxation of the amount for State income tax purposes.

9 **SECTION 24.(b)** Definitions. – The following definitions apply in this section:

10 (1) Airline payment amount. – Defined in section 1106(c)(1) of Public Law
11 112-95, as amended by Public Law 113-243.

12 (2) Qualified airline employee. – Defined in section 1106(c)(2) of Public Law
13 112-95, as amended by Public Law 113-243.

14 **SECTION 24.(c)** Extension of Time to File Claim for Refund. – Notwithstanding
15 the general statute of limitations for obtaining a refund of an overpayment of tax under
16 G.S. 105-241.6(a), a qualified airline employee, or the surviving spouse of a qualified airline
17 employee, that meets all of the following conditions may apply to the Department of Revenue
18 for a refund of the State individual income tax paid on the airline payment amount that was
19 transferred to a traditional IRA:

20 (1) Received an airline payment amount in a taxable year beginning before
21 January 1, 2012, and included the amount in federal adjusted gross income.

22 (2) Transferred any portion of the airline payment amount to a traditional IRA,
23 either directly or indirectly from a Roth IRA, by August 13, 2012.

24 (3) Filed a claim for refund of federal individual income tax paid on the airline
25 payment amount by April 15, 2015, that was accepted by the Internal
26 Revenue Service.

27 **SECTION 24.(d)** Late Refund Request. – A request for a refund under this section
28 must be made to the Secretary of Revenue on or before October 15, 2015. A request for a
29 refund received after that date is barred.

30 **SECTION 25.** Except as otherwise provided, this act is effective when it becomes
31 law.