

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 628

Short Title: Various Changes to the Revenue Laws. (Public)

Sponsors: Senators Tillman, Brock, Tucker (Primary Sponsors); and Krawiec.

Referred to: Rules and Operations of the Senate

April 5, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS.
3 The General Assembly of North Carolina enacts:
4

5 **PART I. BUSINESS TAX CHANGES**

6 **SECTION 1.1.** G.S. 105-114 reads as rewritten:

7 "**§ 105-114. Nature of taxes; definitions.**

8 (a) ~~Nature of Taxes.—The taxes levied in this Article upon persons and partnerships are~~
9 ~~for the privilege of engaging in business or doing the act named.~~

10 (a1) ~~Scope. — The taxes tax levied in this Article upon corporations are is a privilege or~~
11 ~~exercise taxes tax levied upon:~~

12 (1) Corporations organized under the laws of this State for the existence of the
13 corporate rights and privileges granted by their charters, and the enjoyment,
14 under the protection of the laws of this State, of the powers, rights, privileges
15 and immunities derived from the State by the form of such existence; and

16 (2) Corporations not organized under the laws of this State for doing business in
17 this State and for the benefit and protection which these corporations receive
18 from the government and laws of this State in doing business in this State.

19 (a2) ~~Condition for Doing Business. — If the corporation is organized under the laws of~~
20 ~~this State, the payment of the taxes tax levied by this Article is a condition precedent to the~~
21 ~~right to continue in the corporate form of organization. If the corporation is not organized under~~
22 ~~the laws of this State, payment of these taxes this tax is a condition precedent to the right to~~
23 ~~continue to engage in doing business in this State.~~

24 (a3) ~~Tax Year. — The taxes tax levied in this Article are is for the fiscal year of the State~~
25 ~~in which the taxes become due, except that the taxes levied in G.S. 105-122 are for the income~~
26 ~~year of the corporation in which the taxes become due.~~

27 (a4) ~~No Double Taxation. — G.S. 105-122 does not apply to holding companies taxed~~
28 ~~under G.S. 105-120.2. G.S. 105-122 applies to a corporation taxed under another section of this~~
29 ~~Article only to the extent the taxes levied on the corporation in G.S. 105-122 exceed the taxes~~
30 ~~levied in other sections of this Article on the corporation or on a limited liability company~~
31 ~~whose assets must be included in the corporation's tax base under G.S. 105-114.1.~~

32"

33 **SECTION 1.2.** G.S. 105-120.2(c) reads as rewritten:

34 "(c) For purposes of this section, a "holding company" is a corporation that satisfies at
35 least one of the following conditions:

36 ...



- 1 (2) It receives during its taxable year more than eighty percent (80%) of its
2 gross income from corporations in which it owns directly or indirectly more
3 than fifty percent (50%) of the outstanding voting ~~stock or stock~~, voting
4 capital ~~interests~~ interests, or ownership interests."

5 SECTION 1.3.(a) G.S. 105-122 reads as rewritten:

6 "**§ 105-122. Franchise or privilege tax on domestic and foreign corporations.**

7 (a) Tax Imposed. – An annual franchise or privilege tax is imposed on a corporation
8 doing business in this ~~State~~ State for the privilege of doing business in this State and for the
9 continuance of articles of incorporation or domestication of each corporation in this State. The
10 tax is determined on the basis of the books and records of the corporation as of the close of its
11 income year. A corporation subject to the tax must file a return under affirmation with the
12 Secretary at the place and in the manner prescribed by the Secretary. The return must be signed
13 by the president, vice-president, treasurer, or chief financial officer of the corporation. The
14 return is due on or before the fifteenth day of the fourth month following the end of the
15 corporation's income year.

16 ...

17 (d) ~~Tax Base and Tax Rate. – After determining the Base. – A corporation's tax base is~~
18 the greater of the following:

19 (1) ~~The proportion of its net worth as set out in subsection (c1) of this section,~~
20 which amount shall not be less than fifty five percent (55%) section.

21 (2) Fifty-five percent (55%) of the corporation's appraised value as determined
22 for ad valorem taxation of all the real and tangible personal property in this
23 State of each corporation nor less than its State. For purposes of this
24 subdivision, the appraised value of tangible property, including real estate, is
25 the ad valorem valuation for the calendar year next preceding the due date of
26 the franchise tax return.

27 (3) The corporation's total actual investment in tangible property in this State,
28 every corporation taxed under this section shall annually pay to the Secretary
29 of Revenue, at the time the return is due, a franchise or privilege tax at the
30 rate of one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of
31 the total amount of net worth as provided in this section. The tax imposed in
32 this section shall not be less than two hundred dollars (\$200.00) and is for
33 the privilege of carrying on, doing business, and/or the continuance of
34 articles of incorporation or domestication of each corporation in this State.
35 Appraised value of tangible property including real estate is the ad valorem
36 valuation for the calendar year next preceding the due date of the franchise
37 tax return. The term "total State. For purposes of this subdivision, the total
38 actual investment in tangible property" as used in this section means
39 property in this State is the total original purchase price or consideration to
40 the reporting taxpayer of its tangible properties, including real estate, in this
41 State plus additions and improvements thereto less (i) reserve for
42 depreciation as permitted for income tax purposes purposes and (ii) any
43 indebtedness specifically incurred and existing solely for and as the result of
44 the purchase of any real estate and any permanent improvements made on
45 the real estate.

46 ...

47 (d2) Tax Rate. – The tax rate is one dollar and fifty cents (\$1.50) per one thousand
48 dollars (\$1,000) of the corporation's tax base as determined under subsection (d) of this section.
49 The tax imposed in this section shall not be less than two hundred dollars (\$200.00).

50"

1 **SECTION 1.3.(b)** This section becomes effective for taxable years beginning on or
2 after January 1, 2018, and is applicable to the calculation of franchise tax reported on the 2017
3 and later corporate income tax returns.

4 **SECTION 1.4.(a)** G.S. 105-129.106(b) reads as rewritten:

5 "(b) Limitations. – The amount of credit allowed under this section with respect to
6 rehabilitation expenses for a non-income-producing certified historic structure may not exceed
7 twenty-two thousand five hundred dollars (\$22,500) per discrete property parcel. In the event
8 that the taxpayer is the transferee of a State-certified historic structure for which rehabilitation
9 expenses were made, the taxpayer as transferee is allowed a credit under this section for the
10 rehabilitation expenses made by the transferor only if the transfer takes place before the
11 structure is placed in service. In this event, the transferor must provide the transferee with
12 documentation detailing the amount of rehabilitation expenses and credit. ~~no~~ No other taxpayer
13 may claim such credit. A taxpayer is allowed to claim a credit under this section no more than
14 once in any five-year period, carryovers notwithstanding."

15 **SECTION 1.4.(b)** This section becomes effective for taxable years beginning on or
16 after January 1, 2017.

17 **SECTION 1.5.(a)** G.S. 105-130.4 reads as rewritten:

18 **"§ 105-130.4. Allocation and apportionment of income for corporations.**

19 ~~As used in this section, unless the context otherwise requires:~~ Definition. – The
20 following definitions apply in this section:

21 (1) ~~"Apportionable income" means all~~ Apportionable income. – All income that
22 is apportionable under the United States ~~Constitution.~~ Constitution, including
23 income that arises from either of the following:

24 a. Transactions and activities in the regular course of the taxpayer's
25 trade or business.

26 b. Tangible and intangible property if the acquisition, management,
27 employment, development, or disposition of the property is or was
28 related to the operation of the taxpayer's trade or business.

29 (2) Business activity. – Any activity by a corporation that would establish
30 nexus, except as limited by 15 U.S.C. § 381.

31 (3) Casual sale of property. – The sale of any property that was not purchased,
32 produced, or acquired primarily for sale in the corporation's regular trade or
33 business.

34 ~~(2)~~(4) ~~"Commercial domicile" means the~~ Commercial domicile. – The principal
35 place from which the trade or business of the taxpayer is directed or
36 managed.

37 ~~(3)~~(5) ~~"Compensation" means wages,~~ Compensation. – Wages, salaries,
38 commissions and any other form of remuneration paid to employees for
39 personal services.

40 (4) ~~"Excluded corporation" means any corporation engaged in business as a~~
41 ~~building or construction contractor, a securities dealer, or a loan company or~~
42 ~~a corporation that receives more than fifty percent (50%) of its ordinary~~
43 ~~gross income from intangible property.~~

44 ~~(5)~~(6) ~~"Nonapportionable income" means all~~ Nonapportionable income. – All
45 income other than apportionable income.

46 (6) ~~"Public utility" means any corporation that is subject to control of one or~~
47 ~~more of the following entities: the North Carolina Utilities Commission, the~~
48 ~~Federal Communications Commission, the Federal Energy Regulatory~~
49 ~~Commission, or the Federal Aviation Agency; and that owns or operates for~~
50 ~~public use any plant, equipment, property, franchise, or license for the~~
51 ~~transmission of communications, the transportation of goods or persons, or~~

1 ~~the production, storage, transmission, sale, delivery or furnishing of~~
2 ~~electricity, water, steam, oil, oil products, or gas. The term also includes a~~
3 ~~motor carrier of property whose principal business activity is transporting~~
4 ~~property by motor vehicle for hire over the public highways of this State.~~

5 (7) ~~"Sales" means all Sales. – All gross receipts of the corporation except for the~~
6 ~~following receipts:~~

7 ...

8 (8) ~~"Casual sale of property" means the sale of any property which was not~~
9 ~~purchased, produced or acquired primarily for sale in the corporation's~~
10 ~~regular trade or business.~~

11 (9)(8) ~~"State" means any State. – A state of the United States, the District of~~
12 ~~Columbia, the Commonwealth of Puerto Rico, any territory or possession of~~
13 ~~the United States, and any foreign country or political subdivision thereof.~~

14 (b) Multistate Corporations. – A corporation having income from business activity
15 which is taxable both within and without this State shall allocate and apportion its net income
16 or net loss as provided in this section. For purposes of allocation and apportionment, a
17 corporation is taxable in another state if ~~(i) the~~ either of the following applies:

18 (1) The corporation's business activity in that state subjects it to a net income tax
19 or a tax measured by net income, or (ii) that income.

20 (2) That state has jurisdiction based on the corporation's business activity in that
21 state to subject the corporation to a tax measured by net income regardless
22 whether that state exercises its jurisdiction. For purposes of this section,
23 "business activity" includes any activity by a corporation that would
24 establish a taxable nexus pursuant to 15 United States Code section 381.

25 (c) Nonapportionable Income. – Rents and royalties from real or tangible personal
26 property, gains and losses, interest, dividends, patent and copyright royalties and other kinds of
27 income, to the extent that they constitute nonapportionable income, less related expenses shall
28 be allocated as provided in subsections (d) through (h) of this section.

29 (d) Rents and Royalties. – Net rents and royalties are allocable to this State as follows:

30 ...

31 (e) Gains and Losses. – Gains and losses are allocable to this State as follows:

32 ...

33 (f) Interest and Net Dividends. – Interest and net dividends are allocable to this State if
34 the corporation's commercial domicile is in this State. For purposes of this section, the term
35 "net dividends" means gross dividend income received less related expenses.

36 (g) Intangible Property. – Intangible property is allocable to this State as follows:

37 ...

38 (h) Other Income. – The income less related expenses from any other activities
39 producing nonapportionable income or investments not otherwise specified in this section is
40 allocable to this State if the business situs of the activities or investments is located in this
41 State.

42 ...

43 (m) Railroad Company. – All apportionable income of a railroad company shall be
44 apportioned to this State by multiplying the income by a fraction, the numerator of which is the
45 "railway operating revenue" from business done within this State and the denominator of which
46 is the "total railway operating revenue" from all business done by the company as shown by its
47 records kept in accordance with ~~the standard classification of accounts prescribed by the~~
48 Interstate Commerce Commission generally accepted accounting principles.

49 ~~"Railway operating revenue" from business done within this State shall mean "railway~~
50 ~~operating revenue" from business wholly within this State, plus the equal mileage proportion~~
51 ~~within this State of each item of "railway operating revenue" received from the interstate~~

1 business of the company. "Equal mileage proportion" shall mean the proportion which the
2 distance of movement of property and passengers over lines in this State bears to the total
3 distance of movement of property and passengers over lines of the company receiving such
4 revenue. "Interstate business" shall mean "railway operating revenue" from the interstate
5 transportation of persons or property into, out of, or through this State. If the Secretary of
6 Revenue finds, with respect to any particular company, that its accounting records are not kept
7 so as to reflect with exact accuracy such division of revenue by State lines as to each
8 transaction involving interstate revenue, the Secretary of Revenue may adopt such regulations,
9 based upon averages, as will approximate with reasonable accuracy the proportion of interstate
10 revenue actually earned upon lines in this State. Provided, that where a railroad is being
11 operated by a partnership which is treated as a corporation for income tax purposes and pays a
12 net income tax to this State, or if located in another state would be so treated and so pay as if
13 located in this State, each partner's share of the net profits shall be considered as dividends paid
14 by a corporation for purposes of this Part and shall be so treated for inclusion in gross income,
15 deductibility, and separate allocation of dividend income.

16 The following definitions apply in this subsection:

- 17 (1) Equal mileage proportion. – The proportion which the distance of movement
18 of property and passengers over lines in this State bears to the total distance
19 of movement of property and passengers over lines of the company
20 receiving such revenue.
21 (2) Interstate business. – Railroad operating revenue from the interstate
22 transportation of persons or property into, out of, or through this State.
23 (3) Railway operating revenue from business done within this State. – Railroad
24 operating revenue from business wholly within this State, plus the equal
25 mileage proportion within this State of each item of railway operating
26 revenue received from the interstate business of the company.

27 (n) ~~All apportionable income of a telephone company shall be apportioned to this State~~
28 ~~by multiplying the income by a fraction, the numerator of which is gross operating revenue~~
29 ~~from local service in this State plus gross operating revenue from toll services performed~~
30 ~~wholly within this State plus the proportion of revenue from interstate toll services attributable~~
31 ~~to this State as shown by the records of the company plus the gross operating revenue in North~~
32 ~~Carolina from other service less the uncollectible revenue in this State, and the denominator of~~
33 ~~which is the total gross operating revenue from all business done by the company everywhere~~
34 ~~less total uncollectible revenue. Provided, that where a telephone company is required to keep~~
35 ~~its records in accordance with the standard classification of accounts prescribed by the Federal~~
36 ~~Communications Commission the amounts in such accounts shall be used in computing the~~
37 ~~apportionment fraction as provided in this subsection.~~

38 (o) Motor Carrier. – All apportionable income of a motor carrier of property or a motor
39 carrier of people shall be apportioned by multiplying the income by a fraction, the numerator of
40 which is the number of vehicle miles in this State and the denominator of which is the total
41 number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean
42 miles traveled by vehicles owned or operated by the company based upon one of the following:

- 43 (1) Miles on a scheduled route.
44 (2) Miles hauling property for a charge or traveling on a scheduled route.
45 (3) Miles carrying passengers for a fare.

46 (p) ~~All apportionable income of a motor carrier of passengers shall be apportioned by~~
47 ~~multiplying the income by a fraction, the numerator of which is the number of vehicle miles in~~
48 ~~this State and the denominator of which is the total number of vehicle miles of the company~~
49 ~~everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or~~
50 ~~operated by the company carrying passengers for a fare or traveling on a scheduled route.~~

1 ~~(q) All apportionable income of a telegraph company shall be apportioned by~~
2 ~~multiplying the income by a fraction, the numerator of which is the property factor plus the~~
3 ~~payroll factor plus the sales factor and the denominator of which is three.~~

4 ~~The property factor shall be as defined in subsection (j) of this section, the payroll factor~~
5 ~~shall be as defined in subsection (k) of this section, and the sales factor shall be as defined in~~
6 ~~subsection (l) of this section.~~

7 (r) All apportionable income of an excluded corporation and of all other public utilities
8 shall be apportioned by multiplying the income by the sales factor as determined under
9 subsection (l) of this section.

10 The following definitions apply in this subsection:

11 (1) Excluded corporation. – Any corporation engaged in business as a building
12 or construction contractor, a securities dealer, or a loan company or a
13 corporation that receives more than fifty percent (50%) of its ordinary gross
14 income from intangible property.

15 (2) Public utility. – Any corporation that is subject to control of one or more of
16 the following entities: the North Carolina Utilities Commission, the Federal
17 Communications Commission, the Federal Energy Regulatory Commission,
18 or the Federal Aviation Agency; and that owns or operates for public use any
19 plant, equipment, property, franchise, or license for the transmission of
20 communications, the transportation of goods or persons, or the production,
21 storage, transmission, sale, delivery, or furnishing of electricity, water,
22 steam, oil, oil products, or gas. The term also includes a motor carrier of
23 property whose principal business activity is transporting property by motor
24 vehicle for hire over the public highways of this State.

25 (s) Transportation Corporation. – All apportionable income of an air transportation
26 corporation or a water transportation corporation shall be apportioned by a fraction, the
27 numerator of which is the corporation's revenue ton miles in this State and the denominator of
28 which is the corporation's revenue ton miles everywhere. A qualified air freight forwarder shall
29 use the revenue ton mile fraction of its affiliated air carrier. The following definitions apply in
30 this subsection:

31 ...

32 (s2) Pipeline Company. – Receipts from transportation of a petroleum-based liquids
33 pipeline company or gas pipeline company shall be apportioned by multiplying the income by a
34 fraction, the numerator of which is the number of traffic units in this State during the tax year,
35 and the denominator of which is the total number of traffic units everywhere during the tax
36 year. For purposes of this section, the term "traffic unit" means one or more of the following:

37 (1) Barrel mile. – One barrel of liquid property transported one mile.

38 (2) Cubic foot mile. – One cubic foot of gaseous property transported one mile.

39 (3) Other. – Another appropriate measure of product movement."

40 **SECTION 1.5.(b)** This section is effective for taxable years beginning on or after
41 January 1, 2017.

42 **SECTION 1.6.(a)** G.S. 105-130.7B(b)(1) is repealed.

43 **SECTION 1.6.(b)** G.S. 105-130.7B(b)(4) reads as rewritten:

44 "(4) Qualified interest expense. – The amount of net interest expense paid or
45 accrued to a related member in a taxable year with the amount limited to ~~the~~
46 ~~greater of (i) fifteen percent (15%) of the taxpayer's adjusted taxable income~~
47 ~~or (ii) the taxpayer's proportionate share of interest paid or accrued to a~~
48 person who is not a related member during the same taxable year. This
49 limitation does not apply to interest paid or accrued to a related member if
50 one or more of the following applies:

51 "

1 **SECTION 1.6.(c)** This section is effective for taxable years beginning on or after
2 January 1, 2017.

3 **SECTION 1.7.(a)** G.S. 105-131.5 reads as rewritten:

4 **"§ 105-131.5. Part-year resident shareholder.**

5 If a shareholder of an S Corporation is both a resident and nonresident of this State during
6 any taxable period, the shareholder's pro rata share of the S Corporation's income attributable to
7 the State and income not attributable to the State for the taxable period shall be further prorated
8 between the shareholder's periods of residence and nonresidence, in accordance with the
9 number of days in each period, as provided in ~~G.S. 105-134.5~~, G.S. 105-153.4."

10 **SECTION 1.7.(b)** This section is effective for taxable years beginning on or after
11 January 1, 2014.

12 **SECTION 1.8.** G.S. 105-131.7(a) reads as rewritten:

13 "(a) An S Corporation incorporated or doing business in the State shall file with the
14 Department an annual return, on a form prescribed by the Secretary, on or before the due date
15 prescribed for the filing of C Corporation returns in G.S. 105-130.17. The return shall show the
16 name, address, and social security or federal identification number of each shareholder, income
17 attributable to the State and the income not attributable to the State with respect to each
18 shareholder as defined in ~~G.S. 105-131(4) and (5)~~, G.S. 105-131(b)(4) and (b)(5), and such
19 other information as the Secretary may require."

20 **SECTION 1.9.(a)** G.S. 105-134.1 is amended by adding a new subdivision to read:

21 "(5a) Guaranteed payments. – Defined in section 707(c) of the Code."

22 **SECTION 1.9.(b)** G.S. 105-153.3 is amended by adding a new subdivision to read:

23 "(5a) Guaranteed payments. – Defined in section 707(c) of the Code."

24 **SECTION 1.9.(c)** G.S. 105-134.5(d) reads as rewritten:

25 "(d) S Corporations and Partnerships. – In order to calculate the numerator of the
26 fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share
27 of S Corporation income that is includable in the numerator is the shareholder's pro rata share
28 of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In
29 order to calculate the numerator of the fraction provided in subsection (b) of this section for a
30 partner in a partnership or a member of a partnership or other another unincorporated business
31 that has one or more nonresident partners or members and operates in one or more other states,
32 the amount of the partner's or member's distributive share of income of the business plus any
33 guaranteed payments made to a partner from the partnership that is includable in the numerator
34 is determined by multiplying the total net income of the business by the ratio ascertained under
35 the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire
36 gross income of the business less all expenses, taxes, interest, and other deductions allowable
37 under the Code that were incurred in the operation of the business."

38 **SECTION 1.9.(d)** G.S. 105-153.4(d) reads as rewritten:

39 "(d) S Corporations and Partnerships. – In order to calculate the numerator of the
40 fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share
41 of S Corporation income, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is includable
42 in the numerator is the shareholder's pro rata share of the S Corporation's income attributable to
43 the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of the fraction
44 provided in subsection (b) of this section for a partner in a partnership or a member of a
45 partnership or other another unincorporated business that has one or more nonresident partners
46 or members and operates in one or more other states, the amount of the partner's or member's
47 distributive share of the total net income of the business, as modified in G.S. 105-153.5 and
48 G.S. 105-153.6, plus any guaranteed payments made to a partner from the partnership that is
49 includable in the numerator is determined in accordance with the provisions of G.S. 105-130.4.
50 As used in this subsection, total net income means the entire gross income of the business less

1 all expenses, taxes, interest, and other deductions allowable under the Code that were incurred
2 in the operation of the business."

3 **SECTION 1.9.(e)** G.S. 105-154 reads as rewritten:

4 "**§ 105-154. Information at the source returns.**

5 ...

6 (c) Information Returns of Partnerships. – A partnership doing business in this State
7 and required to file a return under the Code shall file an information return with the Secretary.
8 A partnership that the Secretary believes to be doing business in this State and to be required to
9 file a return under the Code shall file an information return when requested to do so by the
10 Secretary. The information return shall contain all information required by the Secretary. It
11 shall state specifically the items of the partnership's gross income, the deductions allowed under
12 the Code, each partner's distributive share of the partnership's income, and the adjustments
13 required by this Part. A partner's distributive share of partnership net income includes any
14 guaranteed payments made to the partner as defined in G.S. 105-134.1. The information return
15 shall also include the name and address of each person who would be entitled to share in the
16 partnership's net income, if distributable, and the amount each person's distributive share would
17 be. ~~The information return shall specify the part of each person's distributive share of the net~~
18 ~~income that represents corporation dividends.~~ The information return shall be signed by one of
19 the partners under affirmation in the form required by the Secretary.

20 A partnership that files an information return under this subsection shall furnish to each
21 person who would be entitled to share in the partnership's net income, if distributable, any
22 information necessary for that person to properly file a State income tax return. The
23 information shall be in the form prescribed by the Secretary and must be furnished on or before
24 the due date of the information return.

25 (d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business
26 conducted in this State is owned by a nonresident individual or by a partnership having one or
27 more nonresident members, the manager of the business shall report information concerning
28 the earnings of the business in this State, the distributive share of the income of each
29 nonresident owner or partner, and any other information required by the Secretary. The
30 distributive share of the income of each nonresident partner includes any guaranteed payments
31 made to the partner as defined in G.S. 105-134.1. The manager of the business shall pay with
32 the return the tax on each nonresident owner or partner's share of the income computed at the
33 rate levied on individuals under G.S. 105-153.7. The business may deduct the payment for each
34 nonresident owner or partner from the owner or partner's distributive share of the ~~profits~~
35 income of the business in this State. If the nonresident partner is not an individual and the
36 partner has executed an affirmation that the partner will pay the tax with its corporate,
37 partnership, trust, or estate income tax return, the manager of the business is not required to pay
38 the tax on the partner's share. In this case, the manager shall include a copy of the affirmation
39 with the report required by this subsection.

40"

41 **SECTION 1.10.(a)** G.S. 105-228.4A reads as rewritten:

42 "**§ 105-228.4A. Tax on captive insurance companies.**

43 (a) Tax Levied. – A tax is levied in this section on a captive insurance company doing
44 business in this State. In the case of a branch captive insurance company, the tax levied in this
45 section applies only to the branch business of the company. Two or more captive insurance
46 ~~companies~~ companies, other than a protected cell captive insurance company or a special
47 purpose captive insurance company that is structured in a manner similar to that of a protected
48 cell captive insurance company, under common ownership and control are taxed under this
49 section as a single captive insurance company.

50 ...

1 (f) Total Tax Liability. – ~~The aggregate amount of tax payable under this section by a~~
2 ~~protected cell captive insurance company with more than 10 cells may not be less than ten~~
3 ~~thousand dollars (\$10,000) and may not exceed the lesser of (i) one hundred thousand dollars~~
4 ~~(\$100,000) plus five thousand dollars (\$5,000) multiplied by the number of cells over 10 and~~
5 ~~(ii) two hundred thousand dollars (\$200,000). The aggregate amount of tax payable under this~~
6 ~~section for any other a captive insurance company company, other than a protected cell captive~~
7 ~~insurance company or a special purpose captive insurance company, which has a cell or series~~
8 ~~structure similar to that of a protected cell captive insurance company, may shall not be less~~
9 ~~than five thousand dollars (\$5,000) and may shall not exceed one hundred thousand dollars~~
10 ~~(\$100,000). The minimum tax under this section for a protected cell captive insurance company~~
11 ~~or a special purpose captive insurance company, which has a cell or series structure similar to~~
12 ~~that of a protected cell captive insurance company, shall not be less than five thousand dollars~~
13 ~~(\$5,000) and shall apply to the protected cell captive insurance company or special purpose~~
14 ~~captive insurance company as a whole and not to each cell or series. The maximum tax to be~~
15 ~~paid by a protected cell captive insurance company or a special purpose captive insurance~~
16 ~~company, which has a cell or series structure, shall be the greater of either five thousand dollars~~
17 ~~(\$5,000) or the aggregate of the tax liabilities of the core and each cell or series within the~~
18 ~~insurance company. The maximum tax liability attributed to any one cell or series of the~~
19 ~~insurance company shall be one hundred thousand dollars (\$100,000).~~

20 ~~If a captive insurance company is a special purpose financial captive and if the special~~
21 ~~purpose financial captive is under common ownership and control with one or more other~~
22 ~~captive insurance companies, the following provisions apply to the consolidated group of~~
23 ~~companies that are taxed as a single captive insurance company pursuant to subsection (a) of~~
24 ~~this section:~~

- 25 (1) ~~The amount of premium tax payable under this section is allocated to each~~
26 ~~member of the consolidated group in the same proportion that the premium~~
27 ~~allocable to the member bears to the total premium of all members.~~
- 28 (2) ~~The aggregate amount of tax payable under this section by the consolidated~~
29 ~~group is equal to the greater of the following:~~
- 30 a. ~~The sum of the premium tax allocated to the members.~~
- 31 b. ~~Five thousand dollars (\$5,000).~~
- 32 (3) ~~If the total premium tax allocated to all members of a consolidated group~~
33 ~~that are special purpose financial captives exceeds one hundred thousand~~
34 ~~dollars (\$100,000), then the total premium tax allocated to those members is~~
35 ~~one hundred thousand dollars (\$100,000).~~
- 36 (4) ~~If the total premium tax allocated to all members of the consolidated group~~
37 ~~that are not special purpose financial captives exceeds one hundred thousand~~
38 ~~dollars (\$100,000), then the total premium tax allocated to those members is~~
39 ~~one hundred thousand dollars (\$100,000).~~

40 (g) For the purposes of this section:

- 41 (1) Common ownership and control shall mean ownership and control of two or
42 more captive insurance companies by the same person or group of persons.
- 43 (2) Ownership and control shall mean:
- 44 a. In the case of a stock corporation, the direct or indirect ownership of
45 eighty percent (80%) or more of the outstanding voting stock and
46 value of the corporation.
- 47 b. In the case of a mutual or nonprofit corporation, the direct or indirect
48 control of eighty percent (80%) or more of the surplus and voting
49 power of such corporation.

1 c. In the case of a limited liability company, the direct or indirect
2 control of eighty percent (80%) or more of the membership interests
3 in the limited liability company."

4 **SECTION 1.10.(b)** This section becomes effective for taxable years beginning on
5 or after January 1, 2017.

6 **SECTION 1.11.(a)** G.S. 105-228.5(d)(3) reads as rewritten:

7 "(3) Additional Rate on Property Coverage Contracts. – An additional tax at the
8 rate of seventy-four hundredths percent (0.74%) applies to gross premiums
9 on insurance contracts for property coverage. The tax is imposed on ten
10 percent (10%) of the gross premiums from insurance contracts for
11 automobile physical damage coverage and on one hundred percent (100%)
12 of the gross premiums from all other contracts for property coverage.
13 Twenty percent (20%) of the net proceeds of this additional tax must be
14 credited to the Volunteer Fire Department Fund established in Article 87 of
15 Chapter 58 of the General Statutes. Twenty percent (20%) of the net
16 proceeds must be credited to the Department of Insurance for disbursement
17 pursuant to G.S. 58-84-25. Up to twenty percent (20%), as determined in
18 accordance with G.S. 58-87-10(f), must be credited to the Workers'
19 Compensation Fund. The remaining net proceeds must be credited to the
20 General Fund. The additional tax imposed on property coverage contracts
21 under this subdivision is a special purpose assessment based on gross
22 premiums and not a gross premiums tax."

23 **SECTION 1.11.(b)** The gross premiums tax is a tax imposed on the gross
24 premiums of insurers, Article 65 corporations, health maintenance organizations, and
25 self-insurers. Entities subject to the gross premiums tax are not subject to franchise or income
26 taxes. In S.L. 2009-548, the General Assembly broadened the taxes against which the business
27 and energy tax credits could be taken from income and franchise taxes to income, franchise,
28 and gross premiums taxes.

29 The gross premiums tax rate is set in G.S. 105-228.5(d)(1) and (2). Separate and
30 apart from the gross premiums taxes, G.S. 105-228.5(d)(3) imposes an additional tax that is
31 calculated using a person's gross premiums but is not considered part of the gross premiums tax
32 imposition. The Department of Revenue has historically administered the gross premium tax
33 and the additional tax imposed under G.S. 105-228.5 as two separate and distinct taxes.
34 Satisfied with this administration, the General Assembly did not address the separate treatment
35 of the two taxes in S.L. 2009-548. It is the intent of this section to further clarify for taxpayers
36 the accuracy of and to endorse the Department's interpretation of the current and continuing
37 state of the law by expressly codifying the long-standing interpretation of the additional tax
38 imposed by G.S. 105-228.5(d)(3) as a separate and distinct tax that is based upon gross
39 premiums but is not a gross premiums tax.
40

41 **PART II. SALES AND USE TAX**

42 **SECTION 2.1.** G.S. 105-164.3 reads as rewritten:

43 **§ 105-164.3. Definitions.**

44 The following definitions apply in this Article:

45 ...
46 (i) Bundled transaction. – A retail sale of two or more distinct and identifiable
47 products, at least one of which is taxable and one of which is exempt, for
48 one nonitemized price. The term does not apply to real property and services
49 to real property. Products are not sold for one nonitemized price if an invoice
50 or another sales document made available to the purchaser separately

- 1 identifies the price of each product. A bundled transaction does not include
 2 the retail sale of any of the following:
 3 ...
- 4 (2c) Capital improvement. – Defined in G.S. 105-164.4H.
 5 ...
- 6 (11b) Free-standing appliance. – An appliance commonly thought of as a
 7 household device operated by gas or electric current. Examples include a
 8 dishwasher, washing machine, clothes dryer, refrigerator, freezer,
 9 microwave, and range.
 10 ...
- 11 (16e) Landscaping service. – A service ~~to maintain or improve lawns, yards, or~~
 12 ~~ornamental plants and trees that~~ modifies the living elements of an area of
 13 land. Examples include the installation of trees, shrubs, or ~~flowers;~~ flowers
 14 on land; tree trimming; ~~lawn~~-mowing; and the application of seed, mulch,
 15 pesticide, or fertilizer to ~~a lawn or yard.~~ an area of land.
 16 ...
- 17 (20b) Mixed transaction contract. – Defined in G.S. 105-164.4H.
 18 ...
- 19 (23a) Motor vehicle service contract. – A service contract for a motor vehicle or
 20 for one or more components, systems, or accessories for a motor vehicle
 21 when sold by a motor vehicle dealer or by or on behalf of dealer, by a motor
 22 vehicle service agreement company or by a motor vehicle dealer
 23 on behalf of a motor vehicle service agreement company. ~~for a motor vehicle~~
 24 ~~or for one or more components, systems, or accessories for a motor vehicle.~~
 25 For purposes of this subdivision, the term "motor vehicle dealer" has the
 26 same meaning as defined in G.S. 20-286 and the term "motor vehicle service
 27 agreement company" ~~has the same meaning as defined in G.S. 66-370.~~ is a
 28 person other than a motor vehicle dealer that issues a service contract for a
 29 motor vehicle or for one or more components, systems, or accessories for a
 30 motor vehicle and who is not an insurer.
 31 ...
- 32 (33d) Real property. – Any one or more of the following:
 33 a. Land.
 34 b. Building or structure on land.
 35 c. Permanent fixture on land.
 36 d. A manufactured home or a modular home that is placed on a
 37 permanent ~~foundation.~~ foundation, as established by the Department
 38 of Insurance.
- 39 (33e) Real property contract. – A contract between a real property contractor and
 40 another person to perform ~~construction, reconstruction, or remodeling with~~
 41 ~~respect to~~ a capital improvement to real property.
 42 ...
- 43 (33i) Repair, maintenance, and installation services. – The term includes the
 44 activities listed in this subdivision and applies to tangible personal property,
 45 motor vehicle, digital property, and real ~~property except~~ property. The term
 46 does not include tangible personal property or digital property installed or
 47 applied by a real property contractor ~~pursuant to~~ to perform a capital
 48 improvement to real property contract ~~taxed in accordance with~~
 49 ~~G.S. 105-164.4H;~~ G.S. 105-164.4H, and the term does not include
 50 landscaping services.

- 1 a. To keep or attempt to keep property or a motor vehicle in working
- 2 order to avoid breakdown and prevent deterioration or repairs.
- 3 Examples include to clean, wash, or polish property.
- 4 b. To calibrate, refinish, restore, or attempt to calibrate, refinish, or
- 5 restore property or a motor vehicle to proper working order or good
- 6 condition. This activity may include replacing or putting together
- 7 what is torn or broken.
- 8 c. To troubleshoot, identify, or attempt to identify the source of a
- 9 problem for the purpose of determining what is needed to restore
- 10 property or a motor vehicle to proper working order or good
- 11 condition. The term includes activities that may lead to the
- 12 production of an inspection report.
- 13 d. To install, apply, connect, adjust, or set into position tangible
- 14 personal property, digital property, or a motor vehicle. The term
- 15 includes the installation of carpet, flooring, floor coverings,
- 16 windows, doors, cabinets, countertops, and other installations where
- 17 the item being installed may replace a similar existing item and the
- 18 installation of the item is not a capital improvement.
- 19 e. To inspect or monitor property or a motor vehicle, but does not
- 20 include security or similar monitoring services for real property.

21 ...

22 (38b) Service contract. – A contract where the obligor under the contract agrees to

23 maintain, monitor, inspect, or repair digital property or tangible personal

24 property for a period of time or some other defined measure, regardless of

25 whether the property becomes a part of or is applied to real property. The

26 term does not include a single repair, maintenance, or installation ~~service-~~

27 ~~service, but generally includes a contract where the obligor under the~~

28 ~~contract agrees to provide an activity included in the definition of repair,~~

29 ~~maintenance, and installation services.~~ The term includes a service contract

30 for a pool, fish tank, or similar aquatic feature and a home warranty.

31 Examples include a warranty agreement other than a manufacturer's

32 warranty or dealer's warranty provided at no charge to the purchaser, an

33 extended warranty agreement, a maintenance agreement, a repair contract, or

34 a similar agreement or contract.

35"

36 **SECTION 2.2.** G.S. 105-164.4(a) reads as rewritten:

37 "(a) A privilege tax is imposed on a retailer engaged in business in the State at the

38 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The

39 general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as

40 follows:

- 41 (1) The general rate of tax applies to the sales price of each item or article of
- 42 tangible personal property that is sold at retail and is not subject to tax under
- 43 another subdivision in this section. A sale of a free-standing appliance is a
- 44 retail sale of tangible personal property, regardless of whether the property is
- 45 installed or applied to real property. This subdivision does not apply to
- 46 repair, maintenance, and installation services for real property; these services
- 47 are taxable under subdivision (16) of this subsection.

48 ...

49 ~~(13) The general rate of tax applies to the sales price of an item or service subject~~

50 ~~to tax under this Article sold to a real property contractor for use by the real~~

1 ~~property contractor or to fulfill a real property contract. These sales are taxed~~
2 ~~in accordance with G.S. 105-164.4H.~~

3 ...
4 (16) The general rate applies to the sales price of or the gross receipts derived
5 from repair, maintenance, and installation services and generally includes
6 any tangible personal property or digital property that becomes a part of or is
7 applied to a purchaser's property. A mixed transaction contract and a real
8 property contract are taxed in accordance with G.S. 105-164.4H."

9 **SECTION 2.3.** G.S. 105-164.4B(a) reads as rewritten:

10 "(a) General Principles. – The following principles apply in determining where to source
11 the sale of a product. Except as otherwise provided in this section, a service is sourced where
12 the purchaser can potentially first make use of the service. These principles apply regardless of
13 the nature of the product, except as otherwise noted in this section:

14"

15 **SECTION 2.4.** G.S. 105-164.4H reads as rewritten:

16 "**§ 105-164.4H. Real property contract.**

17 ...
18 (a1) Substantiation. – Generally, services to real property are retail sales of, or the gross
19 receipts derived from, repair, maintenance, and installation services and subject to tax in
20 accordance with G.S. 105-164.4(a)(16) unless a person substantiates that a transaction is
21 subject to tax as a real property contract in accordance with subsection (a) of this section,
22 subject to tax as a mixed transaction in accordance with subsection (d) of this section, or the
23 transaction is not subject to tax. A person may substantiate that a contract is a real property
24 contract by records that establish the transaction is a real property contract or by receipt of an
25 affidavit of capital improvement. The receipt of an affidavit of capital improvement from
26 another person accepted in good faith establishes that the subcontractor or other person
27 receiving the affidavit should treat the transaction as a capital improvement, and the transaction
28 is subject to tax in accordance with subsection (a) of this section. A person that issues an
29 affidavit of capital improvement is liable for any tax on the transaction if it is determined that
30 the transaction is not a capital improvement.

31 The Secretary shall determine when a person must issue an affidavit of capital
32 improvement. The Secretary may establish guidelines for transactions where an affidavit of
33 capital improvement is not required, but rather a person may establish by records that such
34 transactions are subject to tax in accordance with subsection (a) of this section.

35 ...
36 (b1) Joint and Several Liability. – If a retailer-contractor subcontracts any part of the real
37 property contract, tax is payable by the subcontractor on the subcontractor's purchase of the
38 tangible personal property or digital property that is installed or applied to real property or a
39 service used to fulfill the contract. The retailer-contractor, the subcontractor, the owner of the
40 real property, and the lessee of the real property, are jointly and severally liable for the tax. The
41 liability of a retailer-contractor, a subcontractor, an owner, or lessee who did not purchase the
42 property or service is satisfied by receipt of an affidavit from the purchaser certifying that the
43 tax has been paid. A person who receives an affidavit of capital improvement accepted in good
44 faith is not liable for any tax on the gross receipts from the transaction if it is determined that
45 the transaction is not a capital improvement.

46 ...
47 (d) Mixed Transaction Contract. – A contract that includes both a real property contract
48 for a capital improvement and repair, maintenance, and installation services is taxable as
49 follows:

50 (1) If the price of the taxable repair, maintenance, and installation services
51 included in the contract does not exceed ~~ten percent (10%)~~ twenty-five

1 percent (25%) of the contract price, then the repair, maintenance, and
2 installation services portion of the contract, and the tangible personal
3 property, digital property, or service used to perform that service, are taxable
4 as a real property contract in accordance with this section.

- 5 (2) If the price of the taxable repair, maintenance, and installation services
6 included in the contract is equal to or greater than ~~ten percent (10%)~~
7 seventy-five percent (75%) of the contract price, then ~~sales and use tax~~
8 ~~applies to the taxable repair, maintenance, and installation services portion~~
9 ~~of the contract. The person must determine an allocated price for each~~
10 ~~taxable repair, maintenance, and installation service in the contract based on~~
11 ~~a reasonable allocation of revenue that is supported by the person's business~~
12 ~~records kept in the ordinary course of business. Any purchase of tangible~~
13 ~~personal property, digital property, or services to fulfill the real property~~
14 ~~contract are taxed in accordance with this section.~~the gross receipts derived
15 from capital improvement portion of the contract are taxable as repair,
16 maintenance, and installation services in accordance with this Article.

17 (e) Definitions. – The following definitions apply in this Article:

- 18 (1) Capital improvement. – ~~An addition or alteration to real property that is new~~
19 ~~construction, reconstruction, or remodeling of a building, structure, or~~
20 ~~fixture on land that becomes part of the real property or is permanently~~
21 ~~installed or applied to the real property so that removal would cause material~~
22 ~~damage to the property or article itself. The term includes an addition or an~~
23 ~~alteration to real property for or by a lessee or tenant, provided it is intended~~
24 ~~to become a permanent installation and title to it vests in the owner or lessor~~
25 ~~of the real property immediately upon installation. The term does not include~~
26 ~~the replacement of a fixture in or on a building or structure unless the~~
27 ~~replacement is part of a remodeling. The term does not include a single~~
28 ~~repair, maintenance, or installation service. The term includes, but is not~~
29 ~~limited to, all of the following:~~An addition or alteration to real property that
30 is permanently affixed or installed to real property and includes the
31 following:

- 32 a. New construction, reconstruction, or remodeling.~~Removal of items~~
33 ~~from real property, such as debris, construction materials, asbestos,~~
34 ~~or excavation activities, including the removal of items from a~~
35 ~~structure such as a dumpster.~~
36 b. ~~Performance of work that requires the issuance of a permit under the~~
37 ~~State Building Code, other than repair or replacement of electrical~~
38 ~~components, gas logs, water heater, and similar individual items that~~
39 ~~are not part of new construction, reconstruction, or remodeling.~~
40 e.b. ~~Installation of underground utilities, notwithstanding that charges for~~
41 ~~such are included in the gross receipts derived from services subject~~
42 ~~to the combined general rate under G.S. 105-164.4.~~
43 ~~c.~~ ~~Installation of equipment or fixture that is attached to real property so~~
44 ~~that removal of the item would cause physical, functional, or~~
45 ~~economic damage to the property and that is capitalized under one or~~
46 ~~more of the following: the Code, Generally Accepted Accounting~~
47 ~~Principles, or International Financial Reporting Standards.~~
48 e.d. ~~Painting or wallpapering.~~wallpapering of real property, except where
49 painting or wallpapering is provided in connection with a repair,
50 maintenance, or installation service and is incidental to the repair,
51 maintenance, and installation service.

f.e. Replacement or installation of a septic tank unit or a siding, roofing, septic tank, septage, plumbing, electrical, commercial refrigeration, irrigation, sprinkler, or other similar system. The term does not include the repair, replacement, or installation of electrical or plumbing components, water heaters, gutters, and similar individual items that are not part of new construction, reconstruction, or remodeling.

g.f. Replacement or installation of a heating, ventilation, and air conditioning unit or system. The term does not include the repair, replacement, or installation of gas logs, water heaters, pool heaters, and similar individual items that are not part of new construction, reconstruction, or remodeling.

h.g. Replacement or installation of roads, driveways, parking lots, patios, and sidewalks.

h. Services performed to resolve an issue that was part of a real property contract if the services are performed within six months of completion of the real property contract or, for new construction, within 12 months of the new structure being occupied for the first time.

i. ~~Landscaping service.~~

(2) New construction. – Construction of or site preparation for a permanent new building, structure, or fixture on land or an increase in the square footage of an existing building, structure, or fixture on land.

(3) Reconstruction. – Rebuild or construct again a prior existing permanent building, structure, or fixture on land and may include a change in the square footage from the prior existing building, structure, or fixture on land.

(4) Remodeling. – The process of improving or updating a permanent building, structure, or fixture on land or major portions thereof. The term includes renovation. A transaction comprised of multiple services to restore, improve, alter, or update real property that may be subject to tax as repair, maintenance, and installation services if separately performed. The term includes a transaction where the internal structure of a single room is substantially changed and tangible personal property or digital property is installed or applied and becomes part of real property. The term does not include a single repair, maintenance, and installation service such as installation of carpet, flooring, floor coverings, windows, doors, cabinets, countertops, and other installations where the item being installed may replace a similar existing item.

(5) Renovation. – Remodeling."

SECTION 2.5. G.S. 105-164.4I reads as rewritten:

"§ 105-164.4I. Service contracts.

...
 (b) ~~Exemptions.—The 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 tax under this Article. This exemption does not apply to water maintained under a service contract for a pool, fish tank, or similar aquatic feature.~~

(2) ~~A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.~~

(3) ~~A transmission, an engine, rear end gears, and any other item purchased, leased, or rented by a professional motorsports racing team or a related~~

~~member of a team for which the team or related member may receive a sales tax exemption under G.S. 105-164.13(65) or G.S. 105-164.13(65a) or a sales tax refund under G.S. 105-164.14A(a)(5). This subdivision expires January 1, 2020.~~

- ~~(4) An item subject to tax under Article 5F of Chapter 105 of the General Statutes.~~
- ~~(5) A qualified aircraft or a qualified jet engine.~~
- ~~(6) A motor vehicle service contract.~~
- ~~(7) Repair, maintenance, and installation services exempt under G.S. 105-164.13(61a).~~

(c) Exceptions. – The tax imposed by this section does not apply to any of the following:

- (1) A security or similar monitoring contract for real property.
- (2) A contract to provide a certified operator for a wastewater system.
- (3) A contract to provide landscaping, pest control, or moving services.

...."

SECTION 2.6. G.S. 105-164.13 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:

- ~~(61) A motor vehicle service contract may be exempt as provided in G.S. 105-164.4I.contract.~~
- (61a) Repair, maintenance, and installation services provided for an item, other than a motor vehicle, for which a service contract on the item is exempt from tax under G.S. 105-164.4I. Repair, maintenance, and installation services provided for a motor vehicle are subject to tax, except as provided under subdivision (62a) of this subsection. Sales of or the gross receipts derived from the following repair, maintenance, and installation services and service contracts listed in this subdivision are exempt from tax:tax. The exemption does not include any tangible personal property transferred to the purchaser no matter that the tangible personal property is transferred as part of the repair, maintenance, and installation service.
 - a. An item exempt from tax under this Article. This exemption does not apply to water for a pool, fish tank, or similar aquatic feature or to a motor vehicle, except as provided under subdivision (62a) of this section.
 - a-b. A motor vehicle emissions and safety inspection fee or charge for an inspection required by law, regardless of whether the amount is paid to a public or private entity, imposed pursuant to G.S. 20-183.7, provided the charge-fee is separately stated on the invoice or other documentation provided to the purchaser at the time of the sale.
 - b-c. Services performed for a person by a related member.
 - e. Services performed to resolve an issue that was part of a real property contract if the services are performed within six months of completion of the real property contract or, for new construction, within 12 months of the new structure being occupied for the first time.
 - d-d. Cleaning of real property, except where the service constitutes a part of the gross receipts derived from the rental of an accommodation

- 1 subject to tax under G.S. 105-164.4 or for a pool, fish tank, or other
- 2 similar aquatic feature.
- 3 e. ~~Services on roads, driveways, parking lots, and sidewalks.~~
- 4 f.e. Removal of waste, trash, debris, grease, snow, and other similar
- 5 items from tangible personal property, including a motor vehicle, and
- 6 real property, but does not include removal of waste from portable
- 7 ~~toilets-toilets or oil from motor vehicles.~~
- 8 g.f. ~~Home inspections~~The following inspection reports prepared by a
- 9 person that is not a retailer of the repair, maintenance, and
- 10 installation services performed as a result of the report:
- 11 1. A home inspection related to the preparation for or the sale of
- 12 real ~~property-property~~ and performed by a home inspector
- 13 licensed under Article 9F of Chapter 143 of the General
- 14 Statutes.
- 15 2. An inspection report prepared by a person who is required to
- 16 obtain a State privilege license under G.S. 105-41.
- 17 h. ~~Landscaping service.~~
- 18 i.g. Alteration and repair of clothing, except where the service constitutes
- 19 a part of the gross receipts derived from the rental of clothing subject
- 20 to tax under G.S. 105-164.4 or for alteration and repair of belts and
- 21 shoes.
- 22 j.h. Pest control service.
- 23 k.i. Moving services.
- 24 l.j. Self-service car ~~washes-washes~~ and vacuums.
- 25 k. A transmission, distribution, or other network asset contained on
- 26 utility-owned land, right-of-way, or easement.
- 27 l. A qualified aircraft or a qualified jet engine.
- 28 m. Installation charges for a manufactured home or a modular home
- 29 provided the installation charges are separately stated and identified
- 30 as such on the invoice or other documentation given to the purchaser
- 31 at the time of the sale, regardless of whether the home is being
- 32 installed on property that is owned by the owner of the home.
- 33 ...
- 34 (61c) Installation charges that are a part of the sales price of tangible personal
- 35 property purchased by a real property contractor to fulfill a real property
- 36 contract for an item that is installed or applied to real property, provided the
- 37 installation charges are separately stated and identified as such on the
- 38 invoice or other documentation given to the real property contractor at the
- 39 time of the sale. The exemption also applies to installation charges by a
- 40 retailer-contractor when performing installation services for a real property
- 41 contract. The exemption includes any labor costs provided by the real
- 42 property contractor, including employees' wages, or labor purchased from a
- 43 third party that would otherwise be included in the definition of "purchase
- 44 price."
- 45 ...
- 46 (62) An item or repair, maintenance, and installation services used to maintain,
- 47 monitor, inspect, or repair tangible personal ~~property-property~~, real property,
- 48 or digital property pursuant to a service contract taxable under this Article if
- 49 the purchaser of the contract is not charged for the item or services. This
- 50 exemption does not apply to an item or service used to fulfill a service
- 51 contract exempt from tax under this Article. For purposes of this exemption,

1 the term "item" does not include a tool, equipment, supply, or similar
 2 tangible personal property that is not deemed to be a component or repair
 3 part of the tangible personal ~~property~~ property, real property, or digital
 4 property for which a service contract is sold to a purchaser.

5 ...
 6 (65) This subdivision expires January 1, 2020. Sales of the following ~~The sale,~~
 7 ~~lease, or rental of an engine~~ to a professional motorsports racing team or a
 8 related member of a team for use in competition in a sanctioned race ~~series.~~
 9 series:

10 a. The sale, lease, or rental of an engine.

11 b. The sales price of or gross receipts derived from a service contract
 12 on, or repair, maintenance, and installation services for, a
 13 transmission, an engine, rear-end gears, and any other item that is
 14 exempt from tax under this subdivision or that is allowed a sales tax
 15 refund under G.S. 105-164.14A(a)(5).

16 c. ~~For purposes of this subdivision, the term "sale" includes~~ The gross
 17 receipts derived from an agreement to provide an engine to a
 18 professional motorsports racing team or related member of a team for
 19 use in competition in a sanctioned race series, where such agreement
 20 does not meet the definition of a "service contract" as defined in
 21 G.S. 105-164.3 but may meet the definition of the term "lease or
 22 rental" as defined in G.S. 105-164.3. ~~This subdivision expires~~
 23 ~~January 1, 2020.~~

24"

25 **SECTION 2.7.(a)** G.S. 105-164.14(a) reads as rewritten:

26 "(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with
 27 this section, of part of the sales and use taxes paid by it on the purchase in this State of railway
 28 cars and locomotives, and fuel, lubricants, repair parts, ~~and accessories~~ accessories, and repair,
 29 maintenance, and installation services for a motor vehicle, railroad car, locomotive, or airplane
 30 the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons
 31 or property in interstate commerce for compensation. The Secretary shall prescribe the periods
 32 of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds
 33 may be claimed, and shall prescribe the time within which, following these periods, an
 34 application for refund may be made.

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

37 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts,
 38 ~~and accessories~~ accessories, and repair, maintenance, and installation
 39 services purchased by the applicant inside or outside this State during the
 40 refund period.

41"

42 **SECTION 2.7.(b)** This section is effective retroactively to January 1, 2017.

43 **SECTION 2.8.(a)** If the Secretary of Revenue determines that a seller paid sales
 44 and use taxes on a product and the seller used the product purchased for a taxable repair,
 45 maintenance, and installation service to real property, the Secretary may allow the seller to
 46 offset the sales tax liability on the taxable repair, maintenance, and installation service with the
 47 sales and use tax paid on the products.

48 **SECTION 2.8.(b)** This section is effective retroactively to January 1, 2017, and
 49 expires on July 1, 2018.

50
 51 **PART III. TAX COLLECTION AND ENFORCEMENT**

1 **SECTION 3.1.(a)** G.S. 105-236(a) reads as rewritten:

2 "(a) Penalties. – The following civil penalties and criminal offenses apply:

3 ...

4 (7) Attempt to Evade or Defeat Tax. – Any person who willfully attempts, or
5 any person who aids or abets any person to attempt in any manner to evade
6 or defeat a tax or its payment, shall, in addition to other penalties provided
7 by law, be guilty of (i) a Class H ~~felony~~ F felony if violation of this
8 subdivision involves less than one hundred thousand dollars (\$100,000) and
9 (ii) a Class C felony for any other violation of this subdivision.

10 ...

11 (9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any
12 person required to pay any tax, to file a return, to keep any records, or to
13 supply any information, who willfully fails to pay the tax, file the return,
14 keep the records, or supply the information, at the time or times required by
15 law, or rules issued pursuant thereto, is, in addition to other penalties
16 provided by law, guilty of a Class 1 ~~misdemeanor~~ misdemeanor for the first
17 offense and a Class H felony for any second or subsequent offense.
18 Notwithstanding any other provision of law, no prosecution for a violation
19 brought under this subdivision is barred before the expiration of six years
20 after the date of the violation.

21 ...

22 (9b) Identity Theft. – A person who violates G.S. 14-113.20 is guilty as provided
23 in G.S. 14-113.22(a). Each document filed with identifying information of
24 another may be considered a separate offense. In addition to the listing in
25 G.S. 14-113.20, the term "identifying information" as used in this
26 subdivision, includes the following:

27 a. Legal name.

28 b. Date of birth.

29 c. Taxpayer Identification Number.

30 d. Federal Identification Number.

31 "

32 **SECTION 3.1.(b)** G.S. 105-235 reads as rewritten:

33 "**§ 105-235. Every day's failure a separate offense.**

34 The willful failure, refusal, or neglect to observe and comply with any order, direction, or
35 mandate of the Secretary of Revenue, or to perform any duty enjoined by this Subchapter, by
36 any person, firm, or corporation subject to the provisions of this Subchapter, or any officer,
37 agent, or employee thereof, ~~shall, may, at the Secretary's discretion,~~ for each day such failure,
38 refusal, or neglect continues, constitute a separate and distinct offense."

39 **SECTION 3.2.** G.S. 105-251.2 is amended by adding the following new
40 subsections to read:

41 "(c) Payment Settlement Entity. – For any year in which a payment settlement entity is
42 required to make a return pursuant to Section 6050W of the Code, the entity shall submit the
43 information in the return to the Secretary at the time the return is made. For purposes of this
44 subsection, the term "payment settlement entity" has the same meaning as provided in Section
45 6050W of the Code.

46 (d) Electronic Format. – All reports submitted to the Department of Revenue under this
47 section shall be in an electronic format as requested by the Secretary. Any report not timely
48 filed under this section is subject to a penalty of one thousand dollars (\$1,000)."

49 **SECTION 3.3.(a)** G.S. 39-23.1 is amended by adding a new subdivision to read:

1 "(14) Voidable transaction. – The term does not include payment to the State or a
2 political subdivision of the State of taxes, debts, fines, penalties, or other
3 obligations or amounts."

4 **SECTION 3.3.(b)** G.S. 39-23.8(e) reads as rewritten:

5 "(e) A transfer is not voidable under G.S. 39-23.4(a)(2) or G.S. 39-23.5 if the transfer
6 results from:

- 7 (1) Termination of a lease upon default by the debtor when the termination is
8 pursuant to the lease and applicable law; or
9 (2) Enforcement of a security interest in compliance with Article 9 of Chapter
10 25 of the General Statutes, the Uniform Commercial Code, other than
11 acceptance of collateral in full or partial satisfaction of the obligation it
12 secures.
13 (3) The payment of taxes, debts, fines, penalties, or other obligations or amounts
14 to the State or to any political subdivision of the State."

16 **PART IV. ADMINISTRATIVE CHANGES**

17 **SECTION 4.1.(a)** G.S. 105-241.7 reads as rewritten:

18 "**§ 105-241.7. Procedure for obtaining a refund.**

19 ...
20 (d) Notice. – A notice of a proposed denial of a request for refund issued pursuant to
21 subsection (c) of this section and a notice of denial of a request for a refund issued pursuant to
22 subsection (c1) of this section must contain the following information:

- 23 (1) The basis for the denial or the proposed denial. The statement of the basis of
24 the denial does not limit the Department from changing the basis.
25 (2) The circumstances under which ~~the~~ a proposed denial will become final.

26 ...
27 (f) Effect of Denial or Refund. – A proposed denial of a refund and a denial of a refund
28 by the Secretary is ~~are~~ presumed to be correct. A refund does not absolve a taxpayer of a tax
29 liability that may in fact exist. The Secretary may propose an assessment for any deficiency as
30 provided in this Article."

31 **SECTION 4.1.(b)** G.S. 105-241.11 reads as rewritten:

32 "**§ 105-241.11. Requesting review of a proposed denial of a refund or a proposed**
33 **assessment.**

34 (a) Procedure. – A taxpayer who objects to a proposed denial of a refund or a proposed
35 assessment of tax may request a Departmental review of the proposed action by filing a request
36 for review. The request for review must be in the form prescribed by the Secretary and include
37 an explanation for the request for review. The request must be filed with the Department as
38 follows:

- 39 (1) Within 45 days of the date the notice of the proposed denial of the refund or
40 proposed assessment was mailed to the taxpayer, if the notice was delivered
41 by mail.
42 (2) Within 45 days of the date the notice of the proposed denial of the refund or
43 proposed assessment was delivered to the taxpayer, if the notice was
44 delivered in person.
45 (3) At any time between the date that inaction by the Department on a request
46 for refund is considered a proposed denial of the refund and the date the time
47 periods set in the other subdivisions of this subsection expire.

48 (b) Filing. – A request for a Departmental review of a proposed denial of a refund or a
49 proposed assessment is considered filed on the following dates:

- 50 (1) For a request that is delivered in person, the date it is delivered.

1 (2) For a request that is mailed, the date determined in accordance with
2 G.S. 105-263.

3 (3) For a request delivered by another method, the date the Department receives
4 it.

5 (c) FTP Penalty. – A request for a Departmental review of a proposed assessment is
6 considered a request for a Departmental review of a failure to pay penalty that is based on the
7 assessment. A taxpayer who does not request a Departmental review of a proposed assessment
8 may not request a Departmental review of a failure to pay penalty that is based on the
9 ~~assessment~~ assessment but is assessed on a subsequent date in another notice."

10 **SECTION 4.1.(c)** G.S. 105-241.12 reads as rewritten:

11 **"§ 105-241.12. Result when taxpayer does not request a review. Taxpayer inaction.**

12 (a) Refund. – If a taxpayer does not file a timely request for a Departmental review of a
13 proposed denial of a ~~refund~~ refund or fails to timely respond to the Department's request for
14 additional information under G.S. 105-241.13(a), the proposed denial is final and is not subject
15 to further administrative or judicial review. A taxpayer whose proposed denial becomes final
16 may not file another amended return or claim for refund to obtain the denied refund.

17 (b) Assessment. – If a taxpayer does not file a timely request for a Departmental review
18 of a proposed ~~assessment~~ assessment or fails to timely respond to the Department's request for
19 additional information under G.S. 105-241.13(a), the proposed assessment is final and is not
20 subject to further administrative or judicial review. Upon payment of the tax, the taxpayer may
21 request a refund of the tax.

22 Before the Department collects a proposed assessment that becomes final ~~when the~~
23 ~~taxpayer does not file a timely request for a Departmental review,~~ under this subsection, the
24 Department must send the taxpayer a notice of collection. A notice of collection must contain
25 the following information:

26 (1) A statement that the proposed assessment is final and collectible.

27 (2) The amount of tax, interest, and penalties payable by the taxpayer.

28 (3) An explanation of the collection options available to the Department if the
29 taxpayer does not pay the amount shown due on the notice and any remedies
30 available to the taxpayer concerning these collection options."

31 **SECTION 4.1.(d)** G.S. 105-241.13 reads as rewritten:

32 **"§ 105-241.13. Action on request for review.**

33 (a) Action on Request. – If a taxpayer files a timely request for a Departmental review
34 of a proposed denial of a refund or a proposed assessment, the Department must conduct a
35 review of the proposed denial or proposed assessment and ~~take do one or more of the following~~
36 actions: following:

37 (1) Grant the refund or remove the assessment.

38 ~~(2) Schedule a conference with the taxpayer.~~

39 (3) Adjust the amount of tax due or refund owed.

40 (4) Request additional information from the taxpayer concerning the requested
41 refund or proposed assessment. A taxpayer's failure to respond to the
42 Department's request for additional information by the requested response
43 date shall result in the refund or assessment being subject to the provisions
44 of G.S. 105-241.12.

45 (a1) Payment by Taxpayer. – If a taxpayer timely requests a Departmental review of a
46 proposed assessment and thereafter pays the amount due or the amount due as adjusted by the
47 Department, the Department may accept payment and take no further action on the request for
48 Departmental review, unless the taxpayer states in writing that the taxpayer wishes to continue
49 the Departmental review. If the review is not continued, the taxpayer may request a refund of
50 taxes paid pursuant to G.S. 105-241.7(b).

1 (b) Conference. – When the Department reviews a proposed denial of a refund or a
2 proposed assessment and does not grant the refund or remove the assessment, actions under
3 subsection (a) or (a1) of this section do not resolve the Departmental review, the Department
4 must schedule a conference with the taxpayer. The Department must set the time and place for
5 the conference, which may include a conference by telephone, and must send the taxpayer
6 notice of the designated time and place. The Department must send the notice at least 30 days
7 before the date of the conference or, if the Department and the taxpayer agree, within a shorter
8 period.

9 The conference is an informal proceeding at which the taxpayer and the Department must
10 attempt to resolve the case. Testimony under oath is not taken, and the rules of evidence do not
11 apply. A taxpayer may designate a representative to act on the taxpayer's behalf. The taxpayer
12 may present any objections to the proposed denial of refund or proposed assessment at the
13 conference. conference and is not limited by the explanation set forth in the taxpayer's request
14 for review.

15 (c) After Conference. – One of the following must occur after the Department conducts
16 a conference on a proposed denial of a refund or a proposed assessment:

17 (1) The Department and the taxpayer agree on a settlement resolution.

18 (2) The Department and the taxpayer agree that additional time is needed to
19 resolve the taxpayer's objection to the proposed denial of the refund or
20 proposed assessment.

21 (3) The Department and the taxpayer are unable to resolve the taxpayer's
22 objection to the proposed denial of the refund or proposed assessment. If a
23 taxpayer fails to attend a scheduled conference on the proposed denial of a
24 refund or a proposed assessment without prior notice to the Department, the
25 Department and the taxpayer are considered to be unable to resolve the
26 taxpayer's objection."

27 **SECTION 4.1.(e)** G.S. 105-241.16 reads as rewritten:

28 **"§ 105-241.16. Judicial review of decision after contested case hearing.**

29 A taxpayer-party aggrieved by the final decision in a contested case commenced at the
30 Office of Administrative Hearings may seek judicial review of the decision in accordance with
31 Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition
32 for judicial review must be filed in the Superior Court of Wake County and in accordance with
33 the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). Before
34 filing a petition for judicial review, a taxpayer must pay the amount of tax, penalties, and
35 interest the final decision states is due. A taxpayer-party may appeal a decision of the Business
36 Court to the appellate division in accordance with G.S. 150B-52."

37 **SECTION 4.2.** G.S. 105-241.22 reads as rewritten:

38 **"§ 105-241.22. Collection of tax.**

39 The Department may collect a tax in the following circumstances:

40 ...

41 (2) When the Department sends a notice of collection after a taxpayer does not
42 file a timely request for a Departmental review of a proposed assessment of
43 tax based upon taxpayer inaction in accordance with G.S. 105-241.12.

44"

45 **SECTION 4.3.(a)** G.S. 105-113.4A reads as rewritten:

46 **"§ 105-113.4A. Licenses.**

47 ...

48 (c) Denial. – The Secretary may investigate an applicant for a license required under
49 this Article to determine if the information the applicant submits with the application is
50 accurate and if the applicant is eligible to be licensed under this Article. The Secretary may
51 refuse to issue a license to an applicant that has done any of the following:

- 1 ...
- 2 (2) Had a license issued under this Article ~~cancelled~~revoked by the Secretary
- 3 ~~for cause.~~Secretary.
- 4 (3) Had a tobacco products license or registration issued by another state
- 5 ~~cancelled for cause.~~revoked.
- 6 (d) Refund. – A refund of a license tax is allowed only when the tax was collected or
- 7 paid in error. No refund is allowed when a ~~license holder~~licensee surrenders a license or the
- 8 Secretary revokes a license.
- 9 (e) Duplicate or Amended License. – Upon application to the Secretary, a ~~license~~
- 10 ~~holder~~licensee may obtain without charge a duplicate or amended license as provided in this
- 11 subsection. A duplicate or amended license must state that it is a duplicate or amended license,
- 12 as appropriate:
- 13 (1) A duplicate license, if the ~~license holder~~licensee establishes that the original
- 14 license has been lost, destroyed, or defaced.
- 15 (2) An amended license, if the ~~license holder~~licensee establishes that the
- 16 location of the place of business for which the license was issued has
- 17 changed.
- 18 (f) Information on License. – The Secretary must include the following information on
- 19 each license required by this Article:
- 20 (1) The legal name of the ~~license holder~~licensee.
- 21 (2) The name under which the ~~license holder~~licensee conducts business.
- 22 (3) The physical address of the place of business of the ~~license holder~~licensee.
- 23 (4) The account number assigned to the license by the Department.
- 24 (g) Records. – The Secretary must keep a record of the following:
- 25 (1) Applicants for a license under this Article.
- 26 (2) Persons to whom a license has been issued under this Article.
- 27 (3) Persons that hold a current license issued under this Article, by license
- 28 category.
- 29 (h) Lists. – The Secretary must provide the list required under subsection (g) of this
- 30 section upon request of a manufacturer that is a ~~license holder~~licensee under this Article. The
- 31 list must state the name, account number, and business address of each ~~license holder~~licensee
- 32 on the list."

33 **SECTION 4.3.(b)** G.S. 105-113.4B reads as rewritten:

34 "**§ 105-113.4B. Reasons why the Secretary can cancel a license.**Cancellation or revocation

35 of license.

36 (a) Reasons. – The Secretary may cancel a license issued under this Article upon the

37 written request of the ~~license holder~~licensee. The Secretary may summarily ~~cancel the~~revoke a

38 ~~license of a license holder~~issued under this Article when the Secretary finds that the ~~license~~

39 ~~holder~~licensee is incurring liability for the tax imposed under this Article after failing to pay a

40 tax when due under this Article. In addition, the Secretary may ~~cancel the~~revoke the license of

41 a ~~license holder~~licensee that commits one or more of the following acts after holding a hearing

42 on whether the license should be ~~cancelled~~revoked:

- 43 (1) Fails to obtain a license in a timely manner or for all places of business as
- 44 required by this Article.
- 45 (2) Willfully fails to file a return required by this Article.
- 46 (3) Willfully fails to pay a tax when due under this Article.
- 47 (4) Makes a false statement in an application or return required under this
- 48 Article.
- 49 (5) Fails to keep records as required by this Article.

- 1 (6) Refuses to allow the Secretary or a representative of the Secretary to
- 2 examine the person's books, accounts, and records concerning tobacco
- 3 product.
- 4 (7) Fails to disclose the correct amount of tobacco product taxable in this State.
- 5 (8) Fails to file a replacement bond or an additional bond if required by the
- 6 Secretary under this Article.
- 7 (9) Violates G.S. 14-401.18.

8 (b) Procedure. – The Secretary must send a person whose license is summarily
9 ~~cancelled–revoked~~ a notice of the ~~cancellation–revocation~~ and must give the person an
10 opportunity to have a hearing on the ~~cancellation–revocation~~ within 10 days after the
11 ~~cancellation–revocation~~. The Secretary must give a person whose license may be ~~cancelled~~
12 ~~revoked~~ after a hearing at least 10 days' written notice of the date, time, and place of the
13 hearing. A notice of a summary license ~~cancellation–revocation~~ and a notice of hearing must be
14 sent by registered mail to the last known address of the ~~license holder–licensee~~.

15 (c) Release of Bond. – When the Secretary cancels or ~~revokes~~ a license and the ~~license~~
16 ~~holder–licensee~~ has paid all taxes and penalties due under this Article, the Secretary must take
17 one of the following actions concerning a bond or an irrevocable letter of credit filed by the
18 ~~license holder–licensee~~:

- 19 (1) Return an irrevocable letter of credit to the ~~license holder–licensee~~.
- 20 (2) Return a bond to the ~~license holder–licensee~~ or notify the person liable on the
21 bond and the ~~license holder–licensee~~ that the person is released from liability
22 on the bond."

23 **SECTION 4.4.(a)** G.S. 105-449.44(c) reads as rewritten:

24 "(c) Vehicles. – The number of qualified motor vehicles of a motor carrier that is
25 ~~registered–licensed~~ under this Article is the number of sets of decals issued to the carrier. The
26 number of qualified motor vehicles of a carrier that is not ~~registered–licensed~~ under this Article
27 is the number of qualified motor vehicles licensed or registered by the motor carrier in the
28 carrier's base state under the International Registration Plan."

29 **SECTION 4.4.(b)** G.S. 105-449.45(b) reads as rewritten:

30 "(b) Exemptions. – A motor carrier is not required to file a quarterly return if any of the
31 following applies:

- 32 (1) All the motor carrier's operations during the quarter were made under a
33 temporary permit issued under G.S. 105-449.49.
- 34 (2) The motor carrier is an intrastate motor carrier, as indicated on the motor
35 carrier's application for ~~registration–licensure~~ with the Secretary."

36 **SECTION 4.4.(c)** G.S. 105-449.47 reads as rewritten:

37 "**§ 105-449.47. Registration–Licensure of vehicles.**

38 (a) Requirement. – A motor carrier may not operate or cause to be operated in this State
39 a qualified motor vehicle unless both the motor carrier and at least one qualified motor vehicle
40 are ~~registered–licensed~~ as provided in this subsection. This subsection applies to a motor carrier
41 that operates a recreational vehicle that is ~~considered a qualified motor vehicle–used in~~
42 ~~connection with any business endeavor~~. A motor carrier that is subject to the International Fuel
43 Tax Agreement must ~~register–be licensed~~ with the motor carrier's base state jurisdiction. A
44 motor carrier that is not subject to the International Fuel Tax Agreement must ~~register–be~~
45 licensed with the Secretary for purposes of the tax imposed by this Article.

46 (a1) ~~Registration–License and Decal~~. – When the Secretary ~~registers–licenses~~ a motor
47 carrier, the Secretary must issue a ~~registration–card–license~~ for the motor carrier and a set of
48 decals for each qualified motor ~~vehicle–the motor carrier registers–vehicle~~. A motor carrier must
49 keep records of decals issued to it and must be able to account for all decals it receives from the
50 Secretary. ~~Registrations–Licenses~~ and decals issued by the Secretary are for a calendar year. All
51 decals issued by the Secretary remain the property of the State. The Secretary may revoke a

1 ~~registration~~ license or a decal when a motor carrier fails to comply with this Article or Article
2 36C or 36D of this Subchapter.

3 A motor carrier must carry a copy of its ~~registration~~ license in each motor vehicle operated
4 by the motor carrier when the vehicle is in this State. A motor vehicle must clearly display one
5 decal on each side of the vehicle at all times. A decal must be affixed to the qualified motor
6 vehicle for which it was issued in the place and manner designated by the authority that issued
7 it.

8 (b) Exemption. – This section does not apply to the operation of a qualified motor
9 vehicle that is ~~registered~~ licensed in another state and is operated temporarily in this State by a
10 public utility, a governmental or cooperative provider of utility services, or a contractor for one
11 of these entities for the purpose of restoring utility services in an emergency outage."

12 **SECTION 4.4.(d)** G.S. 105-449.47A reads as rewritten:

13 "**§ 105-449.47A. Reasons why the Secretary can deny an application for a registration**
14 **and decals. Denial of license application and decal issuance.**

15 The Secretary may refuse to ~~register~~ license and issue a decal to an applicant that does not
16 meet the requirements set out in G.S. 105-449.69(b) or that has done any of the following:

- 17 (1) Had a ~~registration~~ license issued under Chapter 105 or Chapter 119 of the
18 General Statutes ~~cancelled by the Secretary for cause~~ revoked by the
19 Secretary.
- 20 (2) Had a ~~registration~~ license issued by another jurisdiction, pursuant to the
21 International Fuel Tax Agreement, ~~cancelled for cause~~ revoked.
- 22 (3) Been convicted of fraud or misrepresentation.
- 23 (4) Been convicted of any other offense that indicates that the applicant may not
24 comply with this Article if ~~registered~~ licensed and issued a decal.
- 25 (5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of
26 the General Statutes. The term "tax debt" has the same meaning as defined in
27 G.S. 105-243.1.
- 28 (6) Failed to file a return due under Chapter 105 or Chapter 119 of the General
29 Statutes."

30 **SECTION 4.4.(e)** G.S. 105-449.49(a) reads as rewritten:

31 "(a) Issuance. – Upon application to the Secretary and payment of a fee of fifty dollars
32 (\$50.00), a permitting service may obtain a temporary permit authorizing a motor carrier to
33 operate a vehicle in the State for three days without ~~registering~~ licensing the vehicle in
34 accordance with G.S. 105-449.47. The permitting service may sell the temporary permit to a
35 motor carrier. A motor carrier to whom a temporary permit has been issued may elect not to
36 report its operation of the vehicle during the three-day period. Fees collected under this
37 subsection are credited to the Highway Fund."

38 **SECTION 4.4.(f)** G.S. 105-449.51 reads as rewritten:

39 "**§ 105-449.51. Violations declared to be misdemeanors.**

40 ~~Any A~~ person who operates or causes to be operated on a highway in this State a qualified
41 motor vehicle that does not carry a ~~registration~~ card license as required by this Article, does not
42 properly display a decal as required by this Article, or is not ~~registered~~ licensed in accordance
43 with this Article commits a Class 3 misdemeanor and is punishable by a fine of two hundred
44 dollars (\$200.00). Each day's operation in violation of this section constitutes a separate
45 offense."

46 **SECTION 4.4.(g)** G.S. 105-449.52 reads as rewritten:

47 "**§ 105-449.52. Civil penalties applicable to motor carriers.**

48 (a) Penalty. – A motor carrier who does any of the following is subject to a civil
49 penalty:

- 50 (1) Operates in this State or causes to be operated in this State a qualified motor
51 vehicle that either fails to carry the ~~registration~~ card license required by this

1 Article or fails to display a decal in accordance with this Article. The amount
2 of the penalty is one hundred dollars (\$100.00).

3 (2) Is unable to account for a decal the Secretary issues the motor carrier, as
4 required by G.S. 105-449.47. The amount of the penalty is one hundred
5 dollars (\$100.00) for each decal for which the carrier is unable to account.

6 (3) Displays a decal on a qualified motor vehicle operated by a motor carrier
7 that was not issued to the carrier by the Secretary under G.S. 105-449.47.
8 The amount of the penalty is one thousand dollars (\$1,000) for each decal
9 unlawfully obtained. Both the licensed motor carrier to whom the Secretary
10 issued the decal and the motor carrier displaying the unlawfully obtained
11 decal are jointly and severally liable for the penalty under this subdivision.

12 (a1) Payment. – A penalty imposed under this section is payable to the agency that
13 assessed the penalty. When a qualified motor vehicle is found to be operating without a
14 ~~registration card~~ license or a decal or with a decal the Secretary did not issue for the vehicle, the
15 qualified motor vehicle may not be driven for a purpose other than to park it until the penalty
16 imposed under this section is paid unless the officer that imposes the penalty determines that
17 operating it will not jeopardize collection of the penalty.

18 (b) ~~Penalty.~~ Penalty Reduction. – The Secretary may reduce or waive the penalty as
19 provided under G.S. 105-449.119."

20 **SECTION 4.5.(a)** G.S. 105-449.68 reads as rewritten:

21 "**§ 105-449.68. Restrictions on who can get a license as a distributor.**

22 A bulk end-user of motor fuel may not be licensed as a distributor unless the bulk end-user
23 also acquires motor fuel from a supplier or from another distributor for subsequent sale. This
24 restriction does not apply to a bulk end-user that was licensed as a distributor on January 1,
25 1996. If a distributor license held by a bulk end-user on January 1, 1996, is subsequently
26 revoked or cancelled, the bulk end-user is subject to the restriction set in this section."

27 **SECTION 4.5.(b)** G.S. 105-449.72 reads as rewritten:

28 "**§ 105-449.72. Bond or letter of credit required as a condition of obtaining and keeping
29 certain licenses or of applying for certain refunds.**

30 ...

31 (c) Adjustment to Bond. – When notified to do so by the Secretary, a person that has
32 filed a bond or an irrevocable letter of credit and that holds a license listed in subdivision (a)(2)
33 of this section must file an additional bond or irrevocable letter of credit in the amount
34 requested by the Secretary. The person must file the additional bond or irrevocable letter of
35 credit within 30 days after receiving the notice from the Secretary. The amount of the initial
36 bond or irrevocable letter of credit and any additional bond or irrevocable letter of credit filed
37 by the ~~license holder,~~ licensee, however, may not exceed the limits set in subdivision (a)(2) of
38 this section.

39 (d) Replacements. – When a ~~license holder~~ licensee files a bond or an irrevocable letter
40 of credit as a replacement for a previously filed bond or letter of credit and the ~~license holder~~
41 licensee has paid all taxes and penalties due under this Article, the Secretary must take one of
42 the following actions:

43 (1) Return the previously filed bond or letter of credit.

44 (2) Notify the person liable on the previously filed bond that the person is
45 released from liability on the bond.

46"

47 **SECTION 4.5.(c)** G.S. 105-449.73 reads as rewritten:

48 "**§ 105-449.73. Reasons why the Secretary can deny an application for a license. Denial of
49 license application.**

50 The Secretary may refuse to issue a license to an applicant that has done any of the
51 following:

- 1 (1) Had a license or registration issued under this Article or former Article 36 or
 2 36A of this Chapter ~~cancelled~~revoked by the ~~Secretary for cause~~Secretary.
 3 (1a) Had a motor fuel license or registration issued by another state ~~cancelled for~~
 4 ~~cause~~revoked.

5"

6 **SECTION 4.5.(d)** G.S. 105-449.74 reads as rewritten:

7 **"§ 105-449.74. Issuance of license.**

8 Upon approval of an application, the Secretary must issue a license to the applicant. A
 9 supplier's license must indicate the category of the supplier. An importer's license must indicate
 10 the category of the importer. A ~~license holder~~licensee must maintain and display a copy of the
 11 license issued under this Part in a conspicuous place at each place of business of the ~~license~~
 12 ~~holder~~licensee. A license is not transferable and remains in effect until ~~surrendered~~revoked or
 13 cancelled."

14 **SECTION 4.5.(e)** G.S. 105-449.75 reads as rewritten:

15 **"§ 105-449.75. ~~License holder~~Licensee must notify the Secretary of discontinuance of**
 16 **business.**

17 A ~~license holder~~licensee that stops engaging in this State in the business for which the
 18 license was issued must give the Secretary written notice of the change and must surrender the
 19 license to the Secretary. The notice must give the date the change takes effect and, if the ~~license~~
 20 ~~holder~~licensee has transferred the business to another by sale or otherwise, the date of the
 21 transfer and the name and address of the person to whom the business is transferred.

22 The ~~license holder~~licensee is responsible for all taxes for which the ~~license holder~~licensee
 23 is liable under this Article but are not yet due. If the ~~license holder~~licensee has transferred the
 24 business to another and does not give the notice required by this section, the person to whom
 25 the ~~license holder~~licensee has transferred the business is liable for the amount of any tax the
 26 ~~license holder~~licensee owed the State on the date the business was transferred. The liability of
 27 the person to whom the business is transferred is limited to the value of the property acquired
 28 from the ~~license holder~~licensee."

29 **SECTION 4.5.(f)** G.S. 105-449.76 reads as rewritten:

30 **"§ 105-449.76. ~~Reasons why the Secretary can cancel a license~~Cancellation or revocation**
 31 **of license.**

32 (a) Reasons. – The Secretary may cancel a license issued under this Article upon the
 33 written request of the ~~license holder~~licensee. The Secretary may summarily ~~cancel the~~revoke a
 34 license of a license holder issued under this Article when the Secretary finds that the ~~license~~
 35 ~~holder~~licensee is incurring liability for the tax imposed under this Article after failing to pay a
 36 tax when due under this Article. In addition, the Secretary may ~~cancel the~~revoke the license of
 37 a ~~license holder~~licensee that commits one or more of the acts listed in G.S. 105-449.120 after
 38 holding a hearing on whether the license should be ~~cancelled~~revoked.

39 (b) Procedure. – The Secretary must send a person whose license is summarily
 40 ~~cancelled~~revoked a notice of the ~~cancellation~~revocation and must give the person an
 41 opportunity to have a hearing on the ~~cancellation~~revocation within 10 days after the
 42 ~~cancellation~~revocation. The Secretary must give a person whose license may be ~~cancelled~~
 43 revoked after a hearing at least 10 days' written notice of the date, time, and place of the
 44 hearing. A notice of a summary license ~~cancellation~~revocation and a notice of hearing must be
 45 sent by registered mail to the last known address of the ~~license holder~~licensee.

46 (c) Release of Bond. – When the Secretary cancels or revokes a license and the ~~license~~
 47 ~~holder~~licensee has paid all taxes and penalties due under this Article, the Secretary must take
 48 one of the following actions concerning a bond or an irrevocable letter of credit filed by the
 49 ~~license holder~~licensee:

- 50 (1) Return an irrevocable letter of credit to the ~~license holder~~licensee.

1 (2) Return a bond to the ~~license holder~~ licensee or notify the person liable on the
2 bond and the ~~license holder~~ licensee that the person is released from liability
3 on the bond."

4 **SECTION 4.5.(g)** G.S. 105-449.77(b) reads as rewritten:

5 "(b) Lists. – The Secretary must annually give a list to each ~~license holder~~ licensee of all
6 the ~~license holders~~ licensees under this Article. The list must state the name, account number,
7 and business address of each ~~license holder~~ licensee on the list. The Secretary must send a
8 monthly update of the list to each licensed refiner or licensed supplier and to any other ~~license~~
9 ~~holder~~ licensee that requests a copy of the list."

10 **SECTION 4.5.(h)** G.S. 105-449.92 reads as rewritten:

11 "**§ 105-449.92. Notice to suppliers of ~~cancellation~~ cancellation, revocation, or reissuance**
12 **of certain licenses; effect of notice.**

13 (a) Notice to Suppliers. – If the Secretary cancels or revokes a distributor's license, an
14 exporter's license, or an importer's license, the Secretary must notify all suppliers of the
15 ~~cancellation~~ cancellation or revocation. If the Secretary issues a license to a distributor, an
16 exporter, or an importer whose license was ~~cancelled~~ cancelled or revoked, the Secretary must
17 notify all suppliers of the issuance.

18 (b) Effect of Notice. – A supplier that sells motor fuel to a distributor after receiving
19 notice from the Secretary that the Secretary has cancelled or revoked the distributor's license is
20 jointly and severally liable with the distributor for any tax due on motor fuel the supplier sells
21 to the distributor after receiving the notice. This joint and several liability does not apply to
22 excise tax due on motor fuel sold to a previously unlicensed distributor after the supplier
23 receives notice from the Secretary that the Secretary has issued another license to the
24 distributor."

25 **SECTION 4.5.(i)** G.S. 105-449.97(a) reads as rewritten:

26 "(a) Taxes Not Remitted. – When a supplier files a return, the supplier may deduct from
27 the amount of tax payable with the return the amount of tax any of the following ~~license~~
28 ~~holders~~ licensees owes the supplier but failed to remit to the supplier:

29 (1) A licensed distributor.

30 (2) A licensed importer that removed the motor fuel on which the tax is due
31 from a terminal of an elective or a permissive supplier.

32 (3) Repealed by Session Laws 1995, c. 647, s. 32.

33 A supplier is not liable for tax a ~~license holder~~ licensee listed in this subsection owes the
34 supplier but fails to pay. If a listed ~~license holder~~ licensee pays tax owed to a supplier after the
35 supplier deducts the amount on a return, the supplier must promptly remit the payment to the
36 Secretary."

37 **SECTION 4.5.(j)** G.S. 105-449.98(b) reads as rewritten:

38 "(b) Notice of Fuel Received. – A supplier must notify a licensed distributor, a licensed
39 exporter, or a licensed importer that received motor fuel from the supplier during a reporting
40 period of the number of taxable gallons received. The supplier must give this notice after the
41 end of each reporting period and before the ~~license holder~~ licensee must remit to the supplier
42 the amount of tax due on the fuel."

43 **SECTION 4.5.(k)** G.S. 105-449.104 reads as rewritten:

44 "**§ 105-449.104. Use of name and account number on return.**

45 When a transaction with a person licensed under this Article is required to be reported on a
46 return, the return must state the ~~license holder's~~ licensee's name and the account number used
47 by the Department to identify the ~~license holder~~ licensee. The name of a ~~license holder~~ licensee
48 and the ~~license holder's~~ licensee's account number is stated on the lists compiled under
49 G.S. 105-449.77."

50 **SECTION 4.5.(l)** G.S. 105-449.110(a) reads as rewritten:

1 "(a) Decision. – Upon determining that an application for refund is correct, the Secretary
2 must issue the applicant a warrant upon the State Treasurer for the amount of the refund. If the
3 Secretary determines that an application for refund is incorrect, the Secretary must send the
4 applicant a written notice of the determination to the applicant. The notice must advise the
5 applicant that the applicant may request a hearing on the matter in accordance with Article 9 of
6 this Chapter. proposed denial of the request for a refund. The provisions of Article 9 of this
7 Chapter apply to the procedure for requesting a review of proposed denial of a refund sought
8 under this Article."

9 **SECTION 4.6.(a)** G.S. 105-449.134 reads as rewritten:

10 "**§ 105-449.134. ~~Denial or cancellation~~Denial, revocation, or cancellation of license.**

11 The Secretary may deny an application for a license or cancel or revoke a license under this
12 Article for the same reasons that the Secretary may deny an application for a license or cancel
13 or revoke a license under Article 36C of this Chapter. The procedure in Article 36C for
14 canceling-revoking a license applies to the cancellation-revocation of a license under this
15 Article."

16 **SECTION 4.6.(b)** G.S. 105-449.135 reads as rewritten:

17 "**§ 105-449.135. Issuance of license; notification of changes.**

18 (a) Issuance. – The Secretary must issue a license to each applicant whose application is
19 approved. A license is not transferable and remains in effect until surrendered-revoked or
20 cancelled.

21 (b) Notice. – A license holder-licensee that stops engaging in this State in the business
22 for which the license was issued must give the Secretary written notice of the change and must
23 surrender the license. The notice must give the date the change takes effect and, if the license
24 holder-licensee has transferred the business to another by sale or otherwise, the date of the
25 transfer and the name and address of the person to whom the business is transferred.

26 All taxes for which the license holder-licensee is liable under this Article but are not yet due
27 become due on the date of the change. If the license holder-licensee transfers the business to
28 another and does not give the notice required by this section, the person to whom the business
29 was transferred is liable for the amount of any tax the license holder-licensee owed the State on
30 the date the business was transferred. The liability of the person to whom the business is
31 transferred is limited to the value of the property acquired from the license holder-licensee."

32 **SECTION 4.6.(c)** G.S. 105-449.139 reads as rewritten:

33 "**§ 105-449.139. Miscellaneous provisions.**

34 (a) Records. – A license holder-licensee must keep a record of all documents used to
35 determine the information provided in a return filed under this Article. The records must be
36 kept for three years from the due date of the return to which the records apply. The records are
37 open to inspection during business hours by the Secretary or a person designated by the
38 Secretary.

39 ...

40 (c) Lists. – The Secretary must give a list of licensed alternative fuel providers to each
41 licensed bulk end-user and licensed retailer. The Secretary must also give a list of licensed bulk
42 end-users and licensed retailers to each licensed alternative fuel provider. A list must state the
43 name, account number, and business address of each license holder-licensee on the list. The
44 Secretary must send an annual update of a list to each license holder, licensee, as appropriate."

45 **SECTION 4.6.(d)** G.S. 119-19 reads as rewritten:

46 "**§ 119-19. Authority of Secretary to cancel or revoke a license.**

47 (a) Reasons. – The Secretary of Revenue may cancel a license issued under this Article
48 upon the written request of the license holder-licensee. The Secretary may summarily cancel
49 revoke a license issued under this Article or under Article 36C or 36D of Chapter 105 of the
50 General Statutes when the Secretary finds that the license holder-licensee is incurring liability
51 for the tax imposed by this Article after failing to pay a tax when due under this Article. The

1 Secretary may ~~cancel~~revoke the license of a ~~license holder~~licensee who files a false report
2 under this Article or fails to file a report required under this Article after holding a hearing on
3 whether the license should be ~~cancelled~~revoked.

4 (b) Procedure. – The Secretary must send a person whose license is summarily
5 ~~cancelled~~revoked a notice of the ~~cancellation~~revocation and must give the person an
6 opportunity to have a hearing on the ~~cancellation~~revocation within 10 days after the
7 ~~cancellation~~revocation. The Secretary must give a person whose license may be ~~cancelled~~
8 revoked after a hearing at least 10 days' written notice of the date, time, and place of the
9 hearing. A notice of a summary license ~~cancellation~~revocation and a notice of hearing must be
10 sent by registered mail to the last known address of the ~~license holder~~licensee.

11 (c) Release of Bond. – When the Secretary ~~cancels~~ or revokes a license and the ~~license~~
12 ~~holder~~licensee has paid all taxes and penalties due under this Article, the Secretary must either
13 return to the ~~license holder~~licensee the bond filed by the ~~license holder~~licensee or notify the
14 person liable on the bond and the ~~license holder~~licensee that the person is released from
15 liability on the bond."

16 **SECTION 4.7.** G.S. 105-259(b) is amended by adding a new subdivision to read:

17 "(53) To provide to the Office of Child Support and Enforcement of the
18 Department of Health and Human Services State tax information that relates
19 to noncustodial parent location information as required under 45 C.F.R. §
20 303.3 and Title IV-D of the Social Security Act."

21 **SECTION 4.8.** This Part is effective when it becomes law and applies to requests
22 for review filed on or after that date and to requests for review pending on that date for which
23 the Department reissues a request for additional information, allows the taxpayer time to
24 respond by the requested response date, and provides notification to the taxpayer that failure to
25 timely respond to the request will result in the request for review being subject to the provisions
26 of G.S. 105-241.12.

27 **PART V. PROPERTY TAX**

28 **SECTION 5.1.(a)** G.S. 105-330.3(a1) reads as rewritten:

29 "(a1) Unregistered Vehicles. – The owner of an unregistered classified motor vehicle
30 must list the vehicle for taxes by filing an abstract with the assessor of the county in which the
31 vehicle is located on or before January 31 following the date the owner acquired the
32 unregistered vehicle or, in the case of a registration that is not renewed, January 31 following
33 the date the registration expires, and on or before January 31 of each succeeding year that the
34 vehicle is unregistered. If a classified motor vehicle required to be listed pursuant to this
35 subsection is registered before the end of the fiscal year for which it was required to be listed,
36 the following applies:
37

38 ...

39 (2) For any months for which the vehicle was not taxed between the date the
40 registration expired and the start of the current registered vehicle tax year,
41 the vehicle is taxed as an unregistered vehicle as follows:

42 a. The value of the motor vehicle is determined as of January 1 of the
43 year in which ~~the registration of the motor vehicle expires~~the taxes
44 are computed.

45 ...

46 d. The taxes are due on ~~the first day of the second month~~September 1
47 following the ~~month~~date the notice was prepared. Taxes are payable
48 at par or face amount if paid before January 6 following the due date.
49 Taxes paid on or after January 6 following the due date are subject to
50 interest charges. Interest accrues on taxes paid on or after January 6
51 pursuant to G.S. 105-360.

- e. ~~Interest accrues on unpaid taxes for these unregistered classified motor vehicles at the rate of five percent (5%) for the remainder of the month following the month the taxes are due. Interest accrues at the rate of three fourths percent (3/4%) for each following month until the taxes are paid, unless the notice is prepared after the date the taxes are due. In that circumstance, the interest accrues beginning the second month following the date of the notice until the taxes are paid.~~

...."

SECTION 5.1.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2017.

SECTION 5.2. G.S. 105-330.6(c) reads as rewritten:

"(c) Surrender of Plates. – If the owner of a classified motor ~~vehicle listed pursuant to G.S. 105-330.3(a)(1) vehicle~~, who pays the tax as required by G.S. 105-330.4(a), either transfers the motor vehicle to a new owner or moves out-of-state and registers the vehicle in another jurisdiction, and the owner surrenders the registration plates from the listed vehicle to the Division of Motor Vehicles, then the owner may apply for a release or refund of taxes on the vehicle for any full calendar months remaining in the vehicle's tax year after the date of surrender. To apply for a release or refund, the owner must present to the county tax collector within one year after surrendering the plates the receipt received from the Division of Motor Vehicles accepting surrender of the registration plates. The county tax collector shall then multiply the amount of the taxes for the tax year on the vehicle by a fraction, the denominator of which is the number of months in the tax year and the numerator of which is the number of full calendar months remaining in the vehicle's tax year after the date of surrender of the registration plates. The product of the multiplication is the amount of taxes to be released or refunded. If the taxes have not been paid at the date of application, the county tax collector shall make a release of the prorated taxes and credit the owner's tax notice with the amount of the release. If the taxes have been paid at the date of application, the county tax collector shall direct an order for a refund of the prorated taxes to the county finance officer, and the finance officer shall issue a refund to the vehicle owner."

SECTION 5.3. G.S. 105-338 reads as rewritten:

"§ 105-338. Allocation of appraised valuation of public service property among local taxing units.

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

...

(c) Certain Property of Bus Line, Motor Freight Carrier, and Airline Companies. –

(1) The appraised valuation of a bus line company's rolling stock is allocated for taxation to each local taxing unit according to the ratio of the company's scheduled miles during the calendar year preceding January 1 in each unit to the company's total scheduled miles in this State for the same period. ~~In no event, however, shall the State Board make an allocation to a taxing unit if, when computed, the valuation for that taxing unit amounts to less than five hundred dollars (\$500.00).~~

...."

PART VI. SEVERABILITY AND EFFECTIVE DATE

1 **SECTION 6.1.** If any provision of this act or its application is held invalid, the
2 invalidity does not affect other provisions or applications of this act that can be given effect
3 without the invalid provisions or application, and, to this end, the provisions of this act are
4 severable.

5 **SECTION 6.2** Except as otherwise provided, this act is effective when it becomes
6 law.