

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 5*

Short Title: Rev Laws Technical, Clarifying, & Admin. Chg. (Public)

Sponsors: Senators Rucho (Primary Sponsor); Hartsell and Tillman.

Referred to: Finance.

January 31, 2013

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

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** G.S. 105-116(b) reads as rewritten:

7 "(b) ~~Report-Return~~ and Payment. – The tax imposed by this section is payable quarterly
8 or monthly as specified in this subsection. A return is due quarterly.

9 A water company or public sewerage company must pay tax quarterly when filing a return.
10 An electric power company must pay tax in accordance with the schedule and requirements that
11 apply to payments of sales and use tax under G.S. 105-164.16 and must file a return quarterly.

12 A quarterly return covers a calendar quarter and is due by the last day of the month that
13 follows the quarter covered by the return. A taxpayer must submit a return on a form provided
14 by the Secretary. The return must include the taxpayer's gross receipts from all property it
15 owned or operated during the reporting period in connection with its business taxed under this
16 section. A taxpayer must report its gross receipts on an accrual basis. A return must contain the
17 following information:

- 18 (1) The taxpayer's gross receipts for the reporting period from business inside
19 and outside this State, stated separately.
20 (2) The taxpayer's gross receipts from commodities or services described in
21 subsection (a) that are sold to a vendee subject to the tax levied by this
22 section or to a joint agency established under Chapter 159B of the General
23 Statutes or a city having an ownership share in a project established under
24 that Chapter.
25 (3) The amount of and price paid by the taxpayer for commodities or services
26 described in subsection (a) that are purchased from others engaged in
27 business in this State and the name of each vendor.
28 (4) For an electric power company the entity's gross receipts from the sale
29 within each city of the commodities and services described in subsection
30 (a)."

31 **SECTION 1.(b)** G.S. 105-120.2 reads as rewritten:

32 "§ 105-120.2. Franchise or privilege tax on holding companies.

33 (a) Every corporation, domestic and foreign, incorporated or, by an act, domesticated
34 under the laws of this State or doing business in this State ~~which, that,~~ at the close of its taxable
35 ~~year-year,~~ is a holding company as defined in subsection (c) of this section, shall, pursuant to
36 the provisions of G.S. ~~105-122;105-122~~ do all of the following:



- 1 (1) ~~Make a report and statement, and~~File a return.
- 2 (2) Determine the total amount of its issued and outstanding capital stock,
3 surplus and undivided ~~profits, and~~profits.
- 4 (3) Apportion such outstanding capital stock, surplus and undivided profits to
5 this State.
- 6 (b) (1) Every corporation taxed under this section shall annually pay to the
7 Secretary of Revenue, at the time the ~~report and statement are~~return is due, a
8 franchise or privilege tax, ~~which is hereby levied, tax~~ at the rate of one dollar
9 and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the amount
10 determined under subsection (a) of this section, but in no case shall the tax
11 be more than seventy-five thousand dollars (\$75,000) nor less than
12 thirty-five dollars (\$35.00).
- 13 (2) Notwithstanding the provisions of subdivision (1) of this subsection, if the
14 tax produced pursuant to application of this paragraph (2) exceeds the tax
15 produced pursuant to application of subdivision (1), then the tax ~~shall be~~is
16 levied at the rate of one dollar and fifty cents (\$1.50) per one thousand
17 dollars (\$1,000) on the greater of the ~~amounts of~~following:
- 18 a. Fifty-five percent (55%) of the appraised value as determined for ad
19 valorem taxation of all the real and tangible personal property in this
20 State of each such corporation plus the total appraised value of
21 intangible property returned for taxation of intangible personal
22 property as computed under G.S. ~~405-122(d); or~~105-122(d).
- 23 b. The total actual investment in tangible property in this State of such
24 corporation as computed under G.S. 105-122(d).

25 "

26 **SECTION 1.(c)** G.S. 105-122 reads as rewritten:

27 "**§ 105-122. Franchise or privilege tax on domestic and foreign corporations.**

28 ...

29 (d) After determining the proportion of its total capital stock, surplus and undivided
30 profits as set out in subsection (c) of this section, which amount shall not be less than fifty-five
31 percent (55%) of the appraised value as determined for ad valorem taxation of all the real and
32 tangible personal property in this State of each corporation nor less than its total actual
33 investment in tangible property in this State, every corporation taxed under this section shall
34 annually pay to the Secretary of Revenue, at the time the ~~report and statement are~~return is due,
35 a franchise or privilege tax at the rate of one dollar and fifty cents (\$1.50) per one thousand
36 dollars (\$1,000) of the total amount of capital stock, surplus and undivided profits as provided
37 in this section. The tax imposed in this section shall not be less than thirty-five dollars (\$35.00)
38 and ~~shall be~~is for the privilege of carrying on, doing business, and/or the continuance of
39 articles of incorporation or domestication of each corporation in this State. Appraised value of
40 tangible property including real estate is the ad valorem valuation for the calendar year next
41 preceding the due date of the franchise tax return. The term "total actual investment in tangible
42 property" as used in this section means the total original purchase price or consideration to the
43 reporting taxpayer of its tangible properties, including real estate, in this State plus additions
44 and improvements thereto less reserve for depreciation as permitted for income tax purposes,
45 and also less any indebtedness incurred and existing by virtue of the purchase of any real estate
46 and any permanent improvements made thereon. In computing "total actual investment in
47 tangible personal property" ~~there shall also be deducted~~a corporation may deduct reserves for
48 the entire cost of any air-cleaning device or sewage or waste treatment plant, including waste
49 lagoons, and pollution abatement equipment purchased or constructed and installed which
50 reduces the amount of air or water pollution resulting from the emission of air contaminants or
51 the discharge of sewage and industrial wastes or other polluting materials or substances into the

1 outdoor atmosphere or into streams, lakes, or rivers, upon condition that the corporation
2 claiming this deduction shall furnish to the Secretary a certificate from the Department of
3 Environment and Natural Resources or from a local air pollution control program for
4 air-cleaning devices located in an area where the Environmental Management Commission has
5 certified a local air pollution control program pursuant to G.S. 143-215.112 certifying that said
6 Department or local air pollution control program has found as a fact that the air-cleaning
7 device, waste treatment plant or pollution abatement equipment purchased or constructed and
8 installed as above described has actually been constructed and installed and that the device,
9 plant or equipment complies with the requirements of the Environmental Management
10 Commission or local air pollution control program with respect to the devices, plants or
11 equipment, that the device, plant or equipment is being effectively operated in accordance with
12 the terms and conditions set forth in the permit, certificate of approval, or other document of
13 approval issued by the Environmental Management Commission or local air pollution control
14 program and that the primary purpose is to reduce air or water pollution resulting from the
15 emission of air contaminants or the discharge of sewage and waste and not merely incidental to
16 other purposes and functions. The cost of constructing facilities of any private or public utility
17 built for the purpose of providing sewer service to residential and outlying areas is treated as
18 deductible for the purposes of this section; the deductible liability allowed by this section ~~shall~~
19 ~~apply~~ applies only with respect to pollution abatement plants or equipment constructed or
20 installed on or after January 1, 1955.

21 ...

22 (f) The ~~report, statement return~~ and tax required by this section ~~shall be~~ is in addition to
23 all other reports required or taxes levied and assessed in this State.

24"

25 **SECTION 1.(d)** G.S. 105-127(a) reads as rewritten:

26 "(a) Every corporation, domestic or foreign, that is required to file a return with the
27 Secretary from which a report is required by law to be made to the Secretary of Revenue, shall,
28 unless otherwise provided, pay annually to said Secretary ~~annually~~ the franchise tax as required
29 by G.S. 105-122."

30 **SECTION 1.(e)** G.S. 105-134.2(b) reads as rewritten:

31 "(b) In lieu of the tax imposed by subsection (a) of this section, there is imposed for each
32 taxable year upon the North Carolina taxable income of every individual a tax determined
33 under tables, applicable to the taxable year, which may be prescribed by the Secretary. The
34 amounts of the tax determined under the tables shall be computed on the basis of the rates
35 prescribed by subsection (a) of this section. This subsection does not apply to an individual
36 ~~making filing~~ a return under section 443(a)(1) of the Code for a period of less than 12 months
37 on account of a change in the individual's annual accounting period, or to an estate or trust. The
38 tax imposed by this subsection shall be treated as the tax imposed by subsection (a) of this
39 section."

40 **SECTION 1.(f)** G.S. 105-164.19 reads as rewritten:

41 "**§ 105-164.19. Extension of time for making returns and payment.**

42 The Secretary for good cause may extend the time for ~~making filing~~ any return under the
43 provisions of this Article and may grant ~~such~~ additional time within which to ~~make such file the~~
44 return as he may deem ~~proper proper~~, but the time for filing any ~~such~~ return shall not be
45 extended for more than 30 days after the regular due date of ~~such the~~ return. If the time for
46 filing a return ~~be is~~ extended, interest accrues at the rate established pursuant to
47 G.S. 105-241.21 from the time the return was due to be filed to the date of payment. ~~payment~~
48 ~~shall be added and paid."~~

49 **SECTION 1.(g)** G.S. 105-164.30 reads as rewritten:

50 "**§ 105-164.30. Secretary or agent may examine books, etc.**

1 For the purpose of enforcing the collection of the tax levied by this Article, the Secretary or
 2 his duly authorized agent is ~~hereby specifically authorized and empowered~~ to examine at all
 3 reasonable hours during the day the books, papers, records, documents or other data of all
 4 retailers or wholesale merchants bearing upon the correctness of any return or for the purpose
 5 of ~~making-filing~~ a return where none has been made as required by this Article, and may
 6 require the attendance of any person and take his testimony with respect to any such matter,
 7 with power to administer oaths to such person or persons. If any person summoned as a witness
 8 ~~shall fail-fails~~ to obey any summons to appear before the Secretary or his authorized agent, or
 9 ~~shall refuse-refuses~~ to testify or answer any material question or to produce any book, record,
 10 paper, or other data when required to do so, ~~such-the~~ Secretary or his authorized agent shall
 11 report the failure or refusal ~~shall be reported~~ to the Attorney General or the district solicitor,
 12 who shall thereupon institute proceedings in the superior court of the county where ~~such-the~~
 13 witness resides to compel obedience to any summons of the Secretary or his authorized agent.
 14 Officers who serve summonses or subpoenas, and witnesses attending, shall receive like
 15 compensation as officers and witnesses in the superior courts, to be paid from the proper
 16 appropriation for the administration of this Article.

17 In the event any retailer or wholesale merchant ~~shall fail or refuse-fails or refuses~~ to permit
 18 ~~examination of-the~~ Secretary or his authorized agent to examine his books, papers, accounts,
 19 records, documents or other data ~~by the Secretary or his authorized agents as aforesaid, data,~~
 20 the Secretary ~~shall have the power to proceed by citing said~~ may require the retailer or
 21 wholesale merchant to show cause before the superior court of the county in which said
 22 taxpayer resides or has its principal place of business as to why ~~such-the~~ books, records, papers,
 23 or documents should not be examined and ~~said-the~~ superior court shall have jurisdiction to
 24 enter an order requiring the production of all necessary books, records, papers, or documents
 25 and to punish for contempt any person who violates the order. ~~of such order any person~~
 26 ~~violating the same."~~

27 **SECTION 1.(h)** G.S. 105-236(a)(9) reads as rewritten:

28 "(9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any
 29 person required to pay any tax, to make a return, to keep any records, or to
 30 supply any information, who willfully fails to pay the tax, ~~make-file~~ the
 31 return, keep the records, or supply the information, at the time or times
 32 required by law, or rules issued pursuant thereto, ~~shall,~~ is, in addition to
 33 other penalties provided by law, ~~be-guilty~~ of a Class 1 misdemeanor.
 34 Notwithstanding any other provision of law, no prosecution for a violation
 35 brought under this subdivision ~~shall be-is~~ barred before the expiration of six
 36 years after the date of the violation."

37 **SECTION 1.(i)** G.S. 105-258(a) reads as rewritten:

38 "(a) Secretary May Examine Data and Summon Persons. – The Secretary of
 39 ~~Revenue, Revenue~~ is authorized to do any of the following for the purpose of ascertaining the
 40 correctness of any return, ~~making-filing~~ a return where none has been made, or determining the
 41 liability of any person for a tax, or collecting any tax: ~~such tax, shall have the power~~

42 (1) ~~to examine, Examine,~~ personally, or by an agent designated by him, any
 43 books, papers, records, or other data ~~which-that~~ may be relevant or material
 44 to such inquiry, and the Secretary may the inquiry.

45 (2) ~~summon-Summon~~ any of the following persons to appear at a time and place
 46 named in the summons, to produce such books, papers, records or other data,
 47 and to give such testimony under oath as may be relevant or material to the
 48 inquiry:

49 a. ~~the-Any~~ person liable for the tax or required to perform the act, or
 50 any officer or employee of such ~~person, or any person.~~

b. ~~Any person having possession, custody, care or control of books of account containing entries relevant or material to the income and expenditures of the person liable for the tax or required to perform the act, or any other person having knowledge in the premises, premises, to appear before the Secretary, or his agent, at a time and place named in the summons, and to produce such books, papers, records or other data, and to give such testimony under oath as may be relevant or material to such inquiry, and the Secretary or his agent may~~

(3) ~~administer~~ Administer oaths to ~~such person or persons.~~ the persons listed in this subsection.

(4) ~~If any person so summoned refuses to obey such summons or to give testimony when summoned, the Secretary may apply~~ Apply to the Superior Court of Wake County for an order requiring ~~such person or persons to comply with the summons of the Secretary, and the failure~~ any person who refuses to obey the summons or to give testimony when summoned. Failure to comply with such the court order shall be punished as for contempt."

SECTION 2.(a) G.S. 105-122(c1) reads as rewritten:

"(c1) Apportionment. – A corporation that is doing business in this State and in one or more other states must apportion its capital stock, surplus, and undivided profits to this State. A corporation must use the apportionment method set out in subdivision (1) of this subsection unless the Department has authorized it to use a different method under subdivision (2) of this subsection. The portion of a corporation's capital stock, surplus, and undivided profits determined by applying the appropriate apportionment method is considered the amount of capital stock, surplus, and undivided profits the corporation uses in its business in this State.

...
 (2) Alternative. – A corporation that believes the statutory apportionment method set out in subdivision (1) of this subsection subjects a greater portion of its capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method. The corporation has the burden of establishing by clear, cogent, and convincing proof that the statutory apportionment method subjects a greater portion of the corporation's capital stock, surplus, and undivided profits to tax under this section than is attributable to its business in this State and that the proposed alternative method is a better method of determining the amount of the corporation's capital stock, surplus, and undivided profits attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years, ~~unless the provisions of subdivision (3) of this subsection applies.~~ years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subdivision. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its capital stock, surplus, and undivided profits in accordance with the alternative method or the statutory method."

SECTION 2.(b) G.S. 105-130.4(t1) reads as rewritten:

"(t1) Alternative Apportionment Method. – A corporation that believes the statutory apportionment method that otherwise applies to it under this section subjects a greater portion of its income to tax than is attributable to its business in this State may make a written request to the Secretary for permission to use an alternative method. The request must set out the reasons for the corporation's belief and propose an alternative method.

The statutory apportionment method that otherwise applies to a corporation under this section is presumed to be the best method of determining the portion of the corporation's income that is attributable to its business in this State. A corporation has the burden of establishing by clear, cogent, and convincing proof that the proposed alternative method is a better method of determining the amount of the corporation's income attributable to the corporation's business in this State.

The Secretary must issue a written decision on a corporation's request for an alternative apportionment method. If the decision grants the request, it must describe the alternative method the corporation is authorized to use and state the tax years to which the alternative method applies. A decision may apply to no more than three tax years, ~~unless the provisions of subsection (t2) of this section apply.~~ years. A corporation may renew a request to use an alternative apportionment method by following the procedure in this subsection. A decision of the Secretary on a request for an alternative apportionment method is final and is not subject to administrative or judicial review. A corporation authorized to use an alternative method may apportion its income in accordance with the alternative method or the statutory method. A corporation may not use an alternative apportionment method except upon written order of the Secretary, and any return in which any alternative apportionment method, other than the method prescribed by statute, is used without permission of the Secretary is not a lawful return."

SECTION 3. G.S. 105-163.41(c) reads as rewritten:

"(c) The period of the underpayment ~~shall run~~ runs from the date the installment was required to be paid to the earlier of:

- (1) The 15th day of the ~~3rd~~ 4th month following the close of the taxable year, or
- (2) With respect to any portion of the underpayment, the date on which the portion is paid. An installment payment of estimated tax ~~shall be~~ is considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under subdivision (1) of subsection (b) for that installment date."

SECTION 4. G.S. 105-129.84(c) reads as rewritten:

"(c) Carryforward. – Unless a longer carryforward period applies, any unused portion of a credit allowed under G.S. 105-129.87 or G.S. 105-129.88 may be carried forward for the succeeding five years, and any unused portion of a credit allowed under G.S. 105-129.89 may be carried forward for the succeeding 15 years. If the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with an eligible business within a two-year period, at least one hundred fifty million dollars (\$150,000,000) worth of business and real property, any unused portion of a credit under this Article with respect to the establishment that satisfies that condition may be carried forward for the succeeding 20 years. If the taxpayer does not make the required level of investment, the taxpayer shall apply the ~~five-year~~ standard carryforward period rather than the 20-year carryforward period."

SECTION 5.(a) G.S. 105-134.6 reads as rewritten:

"§ 105-134.6. Modifications to adjusted gross income.

...

1 (b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may
2 deduct any of the following items to the extent those items are included in the taxpayer's
3 adjusted gross income.

4 ...

5 (17b) An amount equal to twenty percent (20%) of the amount added to ~~federal~~
6 ~~taxable income as accelerated depreciation~~ under subdivision (c)(8b) of this
7 section. For the amount added to taxable income in the 2010 taxable year,
8 the deduction allowed by this subdivision applies to the first five taxable
9 years beginning on or after January 1, 2011. For the amount added to taxable
10 income in the 2011 taxable year, the deduction allowed by this subdivision
11 applies to the first five taxable years beginning on or after January 1, 2012.
12 For the amount added to ~~taxable~~ adjusted gross income in the 2012 taxable
13 year, the deduction allowed by this subdivision applies to the first five
14 taxable years beginning on or after January 1, 2013.

15 ...

16 (d) Other Adjustments. – In calculating North Carolina taxable income, a taxpayer must
17 make the following adjustments to adjusted gross income.

18 (1) The amount of inheritance or estate tax attributable to an item of income in
19 respect of a decedent required to be included in gross income under the
20 Code, adjusted as provided in G.S. ~~405-134.5, 105-134.5 and 105-134.6, and~~
21 ~~105-134.7,~~ may be deducted in the year the item of income is included. The
22 amount of inheritance or estate tax attributable to an item of income in
23 respect of a decedent is (i) the amount by which the inheritance or estate tax
24 paid under Article 1 or 1A of this Chapter on property transferred to a
25 beneficiary by a decedent exceeds the amount of the tax that would have
26 been payable by the beneficiary if the item of income in respect of a
27 decedent had not been included in the property transferred to the beneficiary
28 by the decedent, (ii) multiplied by a fraction, the numerator of which is the
29 amount required to be included in gross income for the taxable year under
30 the Code, adjusted as provided in G.S. ~~405-134.5, 105-134.5 and 105-134.6,~~
31 ~~and 105-134.7,~~ and the denominator of which is the total amount of income
32 in respect of a decedent transferred to the beneficiary by the decedent. For an
33 estate or trust, the deduction allowed by this subdivision shall be computed
34 by excluding from the gross income of the estate or trust the portion, if any,
35 of the items of income in respect of a decedent that are properly paid,
36 credited, or to be distributed to the beneficiaries during the taxable year.

37 The Secretary may provide to a beneficiary of an item of income in
38 respect of a decedent any information contained on an inheritance or estate
39 tax return that the beneficiary needs to compute the deduction allowed by
40 this subdivision.

41 ...

42 (3) The taxpayer shall add to ~~taxable~~ adjusted gross income the amount of any
43 recovery during the taxable year not included in ~~taxable~~ adjusted gross
44 income, to the extent the taxpayer's deduction of the recovered amount in a
45 prior taxable year reduced the taxpayer's tax imposed by this Part but, due to
46 differences between the Code and this Part, did not reduce the amount of the
47 taxpayer's tax imposed by the Code. The taxpayer may deduct from ~~taxable~~
48 adjusted gross income the amount of any recovery during the taxable year
49 included in ~~taxable~~ adjusted gross income under section 111 of the Code, to
50 the extent the taxpayer's deduction of the recovered amount in a prior taxable
51 year reduced the taxpayer's tax imposed by the Code but, due to differences

1 between the Code and this Part, did not reduce the amount of the taxpayer's
2 tax imposed by this Part.

3 (4) A taxpayer may deduct from ~~taxable~~ adjusted gross income the amount, not
4 to exceed two thousand five hundred dollars (\$2,500), contributed to an
5 account in the Parental Savings Trust Fund of the State Education Assistance
6 Authority established pursuant to G.S. 116-209.25. In the case of a married
7 couple filing a joint return, the maximum dollar amount of the deduction is
8 five thousand dollars (\$5,000).

9 (5) The taxpayer shall add to ~~taxable~~ adjusted gross income the amount
10 deducted from ~~taxable income~~ in a prior taxable year under subdivision (4)
11 of this subsection to the extent this amount was withdrawn from the Parental
12 Savings Trust Fund of the State Education Assistance Authority established
13 pursuant to G.S. 116-209.25 and not used to pay for the qualified higher
14 education expenses of the designated beneficiary, unless the withdrawal was
15 made without penalty under section 529 of the Code due to the death or
16 permanent disability of the designated beneficiary.

17 (6) A taxpayer who is an eligible firefighter or an eligible rescue squad worker
18 may deduct from ~~taxable~~ adjusted gross income the sum of two hundred fifty
19 dollars (\$250.00). In the case of a married couple filing a joint return, each
20 spouse may qualify separately for the deduction allowed under this
21 subdivision. In order to claim the deduction allowed under this subdivision,
22 the taxpayer must submit with the tax return any documentation required by
23 the Secretary. An individual may not claim a deduction as both an eligible
24 firefighter and as an eligible rescue squad worker in a single taxable year.
25 The following definitions apply in this subdivision:

26 a. Eligible firefighter. – An unpaid member of a volunteer fire
27 department who attended at least 36 hours of fire department drills
28 and meetings during the taxable year.

29 b. Eligible rescue squad worker. – An unpaid member of a volunteer
30 rescue or emergency medical services squad who attended at least 36
31 hours of rescue squad training and meetings during the taxable year.

32 ..."

33 **SECTION 5.(b)** G.S. 105-151(a) reads as rewritten:

34 "(a) An individual who is a resident of this State is allowed a credit against the taxes
35 imposed by this Part for income taxes imposed by and paid to another state or country on
36 income taxed under this Part, subject to the following conditions:

37 ...

38 (2) The fraction of the gross income, as calculated under the Code and adjusted
39 as provided in G.S. ~~105-134.6 and G.S. 105-134.7~~, 105-134.6, that is subject
40 to income tax in another state or country shall be ascertained, and the North
41 Carolina net income tax before credit under this section shall be multiplied
42 by that fraction. The credit allowed is either the product thus calculated or
43 the income tax actually paid the other state or country, whichever is smaller.

44"

45 **SECTION 5.(c)** G.S. 105-151.11(c) reads as rewritten:

46 "(c) Limitations. – A nonresident or part-year resident who claims the credit allowed by
47 this section shall reduce the amount of the credit by multiplying it by the fraction calculated
48 under G.S. 105-134.5(b) or (c), as appropriate. No credit shall be allowed under this section for
49 amounts deducted from ~~gross income~~ in calculating North Carolina taxable income under the
50 Code-income. The credit allowed by this section may not exceed the amount of tax imposed by

1 this Part for the taxable year reduced by the sum of all credits allowable, except for payments
2 of tax made by or on behalf of the taxpayer."

3 **SECTION 5.(d)** G.S. 105-151.30(e) reads as rewritten:

4 "(e) No Double Benefit. – A taxpayer who claims a credit under this section must add
5 back to ~~taxable-adjusted gross income~~ any amount deducted under G.S. 105-134.6(a2)~~the Code~~
6 for the donation of the oyster shells."

7 **SECTION 5.(e)** G.S. 105-152 reads as rewritten:

8 "**§ 105-152. Income tax returns.**

9 ...

10 (c) Information Required With Return. – The income tax return shall show the ~~taxable~~
11 adjusted gross income and adjustments required by this Part and any other information the
12 Secretary requires. The Secretary may require some or all individuals required to file an income
13 tax return to attach to the return a copy of their federal income tax return for the taxable year.
14 The Secretary may require a taxpayer to provide the Department with copies of any other return
15 the taxpayer has filed with the Internal Revenue Service and to verify any information in the
16 return.

17 (d) Secretary May Require Additional Information. – When the Secretary has reason to
18 believe that any taxpayer conducts a trade or business in a way that directly or indirectly
19 distorts the taxpayer's ~~taxable-adjusted gross income~~ or North Carolina taxable income, the
20 Secretary may require any additional information for the proper computation of the taxpayer's
21 ~~taxable-adjusted gross income~~ and North Carolina taxable income. In computing the taxpayer's
22 ~~taxable-adjusted gross income~~ and North Carolina taxable income, the Secretary shall consider
23 the fair profit that would normally arise from the conduct of the trade or business.

24"

25 **SECTION 5.(f)** G.S. 105-160.1 reads as rewritten:

26 "**§ 105-160.1. Definitions.**

27 The definitions provided in Part 2 of this Article shall apply in this Part except where the
28 context clearly indicates a different meaning. In addition, as used in this Part, "taxable income"
29 is defined in section 63 of the Code."

30 **SECTION 5.(g)** G.S. 105-160.2 reads as rewritten:

31 "**§ 105-160.2. Imposition of tax.**

32 The tax imposed by this Part ~~shall apply~~ applies to the taxable income of estates and trusts
33 as determined under the provisions of the Code except as otherwise provided in this Part. The
34 taxable income of an estate or trust ~~shall be is~~ the same as taxable income for such an estate or
35 trust under the provisions of the Code, adjusted as provided in ~~G.S. 105-134.6 and~~
36 ~~G.S. 105-134.7, 105-134.6,~~ except that the adjustments provided in G.S. 105-134.6 ~~and~~
37 ~~G.S. 105-134.7 shall be are~~ apportioned between the estate or trust and the beneficiaries based
38 on the distributions made during the taxable year. The tax ~~shall be is~~ computed on the amount
39 of the taxable income of the estate or trust that is for the benefit of a resident of this State, or for
40 the benefit of a nonresident to the extent that the income (i) is derived from North Carolina
41 sources and is attributable to the ownership of any interest in real or tangible personal property
42 in this State or (ii) is derived from a business, trade, profession, or occupation carried on in this
43 State. For purposes of the preceding sentence, taxable income and gross income ~~shall be is~~
44 computed subject to the adjustments provided in ~~G.S. 105-134.6 and G.S. 105-134.7, 105-134.6.~~
45 The tax on the amount computed above ~~shall be is~~ at the rates levied in G.S. 105-134.2(a)(3).
46 The fiduciary responsible for administering the estate or trust shall pay the ~~The tax computed~~
47 under the provisions of this Part shall be paid by the fiduciary responsible for administering the
48 estate or trust.Part."

49 **SECTION 6.(a)** The first sentence of G.S. 105-134.7(a)(3) is recodified as
50 G.S. 105-134.6(c)(17).

1 **SECTION 6.(b)** G.S. 105-134.7(a)(6) is recodified as G.S. 105-134.6(c)(18) and
 2 reads as rewritten:

3 "(18) A loss or deduction that was incurred or paid and deducted from State
 4 taxable income in a taxable year beginning before January 1, 1989, and is
 5 carried forward and deducted in a taxable year beginning on or after January
 6 1, 1989, under the ~~Code shall be added to taxable income Code.~~"

7 **SECTION 6.(c)** The second sentence of G.S. 105-134.7(a)(3) is recodified as
 8 G.S. 105-134.6(b)(24).

9 **SECTION 6.(d)** G.S. 134.7(a)(7) is recodified as G.S. 105-134.6(d)(9).

10 **SECTION 6.(e)** G.S. 134.7(b) is recodified as G.S. 105-134.6(d)(10).

11 **SECTION 6.(f)** The remainder of G.S. 105-134.7 is repealed.

12 **SECTION 7.** G.S. 105-151.18 reads as rewritten:

13 "**§ 105-151.18. Credit for the disabled.**

14 (a) Disabled Taxpayer. – A taxpayer who (i) is retired on disability, (ii) at the time of
 15 retirement, was permanently and totally disabled, and (iii) claims a federal income tax credit
 16 under section 22 of the Code for the taxable year, is allowed as a credit against the tax imposed
 17 by this Part an amount equal to one-third of the amount of the federal income tax credit for
 18 which the taxpayer is eligible under section 22 of the Code.

19 (b) Disabled Dependent. – If a dependent or spouse for whom a taxpayer is allowed an
 20 exemption under the Code is permanently and totally disabled, the taxpayer is allowed a credit
 21 against the tax imposed by this Part. In order to claim the credit allowed by this subsection, the
 22 taxpayer must attach to the tax return on which the credit is claimed a statement from a
 23 physician or local health department certifying that the dependent or spouse for whom the
 24 credit is claimed is permanently and totally disabled, as defined in this section. The amount of
 25 the credit allowed ~~shall be~~ is determined as follows: For a taxpayer whose North Carolina
 26 ~~adjusted gross taxable~~ adjusted gross taxable income does not exceed the appropriate income amount provided in the
 27 table below, based on the taxpayer's filing status, the credit allowed is the appropriate initial
 28 credit provided in the table below. For a taxpayer whose North Carolina ~~adjusted gross taxable~~
 29 adjusted gross taxable income does exceed the appropriate income amount, the credit allowed is the appropriate initial
 30 credit reduced by four dollars (\$4.00) for every one thousand dollars (\$1,000) by which the
 31 taxpayer's North Carolina ~~adjusted gross taxable~~ adjusted gross taxable income exceeds the appropriate income
 32 amount.

<u>Filing Status</u>	<u>Initial Credit</u>	<u>Income Amount</u>
Head of Household	\$64.00	\$16,000
Surviving Spouse or Joint Return	\$80.00	\$20,000
Single	\$48.00	\$12,000
Married Filing Separately	\$40.00	\$10,000

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

40 (1) North Carolina ~~Adjusted Gross Income taxable income.~~ Adjusted gross income, as determined under the Code,
 41 adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7.
 42

43 (2) Permanently and ~~Totally Disabled.~~ totally disabled. – Unable to engage in
 44 any substantial gainful activity by reason of any medically determinable
 45 physical or mental impairment that can be expected to result in death or that
 46 has lasted or can be expected to last for a continuous period of not less than
 47 12 months. For the purpose of this section, a minor is permanently and
 48 totally disabled if the impact of the impairment on the minor's ability to
 49 function is equivalent in severity to that which would make an adult unable
 50 to engage in any substantial gainful activity.

1 (d) Limitations. – A nonresident or part-year resident who claims the credit allowed by
2 this section shall reduce the amount of the credit by multiplying it by the fraction calculated
3 under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not
4 exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all
5 credits allowable, except payments of tax made by or on behalf of the taxpayer."

6 **SECTION 8.** G.S. 105-164.3 reads as rewritten:

7 "**§ 105-164.3. Definitions.**

8 The following definitions apply in this Article:

9 ...
10 (37b) School instructional material. – Written material commonly used by a
11 student in a course of study as a reference and to learn the subject being
12 taught. The following is an all-inclusive list:

13 a. Reference books.

14 b. Reference maps and globes.

15 c. Textbooks.

16 d. Workbooks. Defined in the Streamlined Agreement.

17 ...
18 (44) Storage. – The keeping or retention in this State for any purpose, except sale
19 in the regular course of business, of tangible personal property or digital
20 property purchased from a retailer. The term does not include a purchaser's
21 storage of tangible personal property or digital property in any of the
22 following circumstances:

23 a. When the purchaser is able to document that at the time the purchaser
24 acquires the property the property is designated for the purchaser's
25 use outside the State and the purchaser subsequently takes it outside
26 the State and uses it solely outside the State.

27 b. When the purchaser acquires the property to process, fabricate,
28 manufacture, or otherwise incorporate it into or attach it to other
29 property for the purchaser's use outside the State and, after
30 incorporating or attaching the purchased property, the purchaser
31 subsequently takes the other property outside the State and uses it
32 solely outside the State.

33 ...
34 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as
35 amended as of ~~December 19, 2011~~ May 24, 2012.

36"

37 **SECTION 9.** G.S. 105-164.4(a)(3) reads as rewritten:

38 "(3) A tax at the general rate applies to the gross receipts derived from the rental
39 of an accommodation. The tax does not apply to (i) a private residence or
40 cottage that is rented for fewer than 15 days in a calendar year; (ii) an
41 accommodation rented to the same person for a period of 90 or more
42 continuous days; or (iii) an accommodation arranged or provided to a person
43 by a school, camp, or similar entity where a tuition or fee is charged to the
44 person for enrollment in the school, camp, or similar entity.

45 Gross receipts derived from the rental of an accommodation include the
46 sales price of the rental of the accommodation. The sales price of the rental
47 of an accommodation is determined as if the rental were a rental of tangible
48 personal property. The sales price of the rental of an accommodation
49 marketed by a facilitator includes charges designated as facilitation fees and
50 any other charges necessary to complete the rental.

1 A person who provides an accommodation that is offered for rent is
2 considered a retailer under this Article. A facilitator must report to the
3 retailer with whom it has a contract the sales price a consumer pays to the
4 facilitator for an accommodation rental marketed by the facilitator. A retailer
5 must notify a facilitator when an accommodation rental marketed by the
6 facilitator is completed ~~and, within three business days of receiving the~~
7 ~~notice, and~~ the facilitator must send the retailer the portion of the sales price
8 the facilitator owes the retailer and the tax due on the sales ~~price. price no~~
9 later than 10 days after the end of each calendar month. A facilitator that
10 does not send the retailer the tax due on the sales price is liable for the
11 amount of tax the facilitator fails to send. A facilitator is not liable for tax
12 sent to a retailer but not remitted by the retailer to the Secretary. Tax
13 payments received by a retailer from a facilitator are held in trust by the
14 retailer for remittance to the Secretary. A retailer that receives a tax payment
15 from a facilitator must remit the amount received to the Secretary. A retailer
16 is not liable for tax due but not received from a facilitator. The requirements
17 imposed by this subdivision on a retailer and a facilitator are considered
18 terms of the contract between the retailer and the facilitator.

19 A person who, by written contract, agrees to be the rental agent for the
20 provider of an accommodation is considered a retailer under this Article and
21 is liable for the tax imposed by this subdivision. The liability of a rental
22 agent for the tax imposed by this subdivision relieves the provider of the
23 accommodation from liability. A rental agent includes a real estate broker, as
24 defined in G.S. 93A-2.

25 The following definitions apply in this subdivision:

- 26 a. Accommodation. – A hotel room, a motel room, a residence, a
27 cottage, or a similar lodging facility for occupancy by an individual.
28 b. Facilitator. – A person who is not a rental agent and who contracts
29 with a provider of an accommodation to market the accommodation
30 and to accept payment from the consumer for the accommodation."

31 **SECTION 10.** G.S. 105-164.6(c) reads as rewritten:

32 "(c) Credit. – A credit is allowed against the tax imposed by this section for the
33 following:

- 34 (1) The amount of sales or use tax paid on the item to this State. State, provided
35 the tax is stated and charged separately on the invoices or other documents
36 of the retailer given to the purchaser at the time of the sale, except as
37 otherwise provided in G.S. 105-164.7, or provided the retailer remitted the
38 tax subsequent to the sale and the purchaser obtains such documentation.
39 Payment of sales or use tax to this State on an item by a retailer extinguishes
40 the liability of a purchaser for the tax imposed under this section.
41 (2) The amount of sales or use tax due and paid on the item to another state. If
42 the amount of tax paid to the other state is less than the amount of tax
43 imposed by this section, the difference is payable to this State. The credit
44 allowed by this subdivision does not apply to tax paid to a state that does not
45 grant a similar credit for sales or use taxes paid in North Carolina."

46 **SECTION 11.** G.S. 105-164.13 reads as rewritten:

47 **"§ 105-164.13. Retail sales and use tax.**

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

51 ...

1 (33a) Tangible personal property sold by a retailer to a purchaser ~~within or~~
2 ~~without~~ inside or outside this State, when the property is delivered by the
3 retailer in this State to a common carrier or to the United States Postal
4 Service for delivery to the purchaser or the purchaser's designees outside this
5 State and the purchaser does not subsequently use the property in this State.
6 This exemption includes printed material sold by a retailer to a purchaser
7 inside or outside this State when the printed material is delivered directly to
8 a mailing house, or to a common carrier, or to the United States Postal
9 Service for delivery to a mailing house in this State that will preaddress and
10 presort the material and deliver it to a common carrier or to the United States
11 Postal Service for delivery to recipients outside this State designated by the
12 purchaser.

13 ...

14 (43a) Computer software that meets any of the following descriptions:

- 15 a. It is ~~designed~~ purchased to run on an enterprise server operating
16 system. The exemption includes a purchase or license of computer
17 software for high-volume, simultaneous use on multiple computers,
18 that is housed or maintained on an enterprise server or end users'
19 computers. The exemption includes software designed to run a
20 computer system, an operating program, or application software.
21 b. It is sold to a person who operates a datacenter and is used within the
22 datacenter.
23 c. It is sold to a person who provides cable service, telecommunications
24 service, or video programming and is used to provide ancillary
25 service, cable service, Internet access service, telecommunications
26 service, or video programming.

27"

28 **SECTION 12.** G.S. 105-164.14(b) reads as rewritten:

29 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual
30 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
31 personal property and services, other than electricity, telecommunications service, and ancillary
32 service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability
33 indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment
34 that become a part of or annexed to any building or structure that is owned or leased by the
35 nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for
36 carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct
37 purchases by the nonprofit entity. A request for a refund must be in writing and must include
38 any information and documentation required by the Secretary. A request for a refund for the
39 first six months of a calendar year is due the following October 15; a request for a refund for
40 the second six months of a calendar year is due the following April 15.

41 The refunds allowed under this subsection do not apply to an entity that is owned and
42 controlled by the United States or to an entity that is owned or controlled by the State and is not
43 listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual
44 refund of sales and use taxes paid by it on ~~medicines and over-the-counter~~ drugs purchased for
45 use in carrying out its work. The following nonprofit entities are allowed a refund under this
46 subsection:

- 47 (1) Hospitals not operated for profit, including hospitals and medical
48 accommodations operated by an authority or other public hospital described
49 in Article 2 of Chapter 131E of the General Statutes.

- 1 (2) An organization that is exempt from income tax under section 501(c)(3) of
2 the Code, other than an organization that is properly classified in any of the
3 following major group areas of the National Taxonomy of Exempt Entities:
4 a. Community Improvement and Capacity Building.
5 b. Public and Societal Benefit.
6 c. Mutual and Membership Benefit.
- 7 (2a) An organization that is exempt from income tax under the Code and is one
8 of the following:
9 a. A volunteer fire department.
10 b. A volunteer emergency medical services squad.
- 11 (2b) An organization that is a single member LLC that is disregarded for income
12 tax purposes and satisfies all of the following conditions:
13 a. The owner of the LLC is an organization that is exempt from income
14 tax under section 501(c)(3) of the Code.
15 b. The LLC is a nonprofit entity that would be eligible for an exemption
16 under 501(c)(3) of the Code if it were not disregarded for income tax
17 purposes.
18 c. The LLC is not an organization that would be properly classified in
19 any of the major group areas of the National Taxonomy of Exempt
20 Entities listed in subdivision (2) of this subsection."

21 **SECTION 13.** G.S. 105-164.27A(a) reads as rewritten:

22 "(a) General. – A general direct pay permit authorizes its holder to purchase any tangible
23 personal property, digital property, or service without paying tax to the seller and authorizes the
24 seller to not collect any tax on a sale to the permit holder. A person who purchases an item
25 under a direct pay permit issued under this subsection is liable for use tax due on the purchase.
26 The tax is payable when the property is placed in use or the service is received. A direct pay
27 permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4 on
28 ~~electricity sales of electricity or the gross receipts derived from rentals of accommodations.~~

29 A person who purchases an item for storage, use, or consumption in this State whose tax
30 status cannot be determined at the time of the purchase because of one of the reasons listed
31 below may apply to the Secretary for a general direct pay permit:

- 32 (1) The place of business where the item will be stored, used, or consumed is
33 not known at the time of the purchase and a different tax consequence
34 applies depending on where the item is used.
- 35 (2) The manner in which the item will be stored, used, or consumed is not
36 known at the time of the purchase and one or more of the potential uses is
37 taxable but others are not taxable."

38 **SECTION 14.** G.S. 105-164.35 is repealed.

39 **SECTION 15.** G.S. 105-164.42L reads as rewritten:

40 **§ 105-164.42L. Databases on taxing jurisdictions. Liability relief for erroneous**
41 **information or insufficient notice by Department.**

42 (a) The Secretary may develop databases that provide information on the boundaries of
43 taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A person who
44 relies on the information provided in these databases is not liable for underpayments of tax
45 attributable to erroneous information provided by the Secretary in those databases.

46 (b) The Secretary may develop a taxability matrix that provides information on the
47 taxability of certain items. A person who relies on the information provided in the taxability
48 matrix is not liable for underpayments of tax attributable to erroneous information provided by
49 the Secretary in the taxability matrix.

50 (c) A retailer is not liable for an underpayment of tax attributable to a rate change when
51 the State fails to provide for at least 30 days between the enactment of the rate change and the

1 effective date of the rate change if the conditions of this subsection are satisfied. However, if
2 the State establishes the retailer fraudulently failed to collect at the new rate or solicited
3 customers based on the immediately preceding effective rate this liability relief does not apply.
4 Both of the following conditions must be satisfied for liability relief:

- 5 (1) The retailer collected tax at the immediately preceding rate.
- 6 (2) The retailer's failure to collect at the newly effective rate does not extend
7 beyond 30 days after the date of enactment of the new rate."

8 **SECTION 16.** G.S. 105-187.51(a) reads as rewritten:

9 "(a) Scope. – A privilege tax is imposed on the following persons:

- 10 (1) A manufacturing ~~industry or~~ plant that purchases mill machinery or mill
11 machinery parts or accessories for storage, use, or consumption in this
12 ~~State.~~ State to produce a product for sale. A manufacturing ~~industry or~~ plant
13 does not include the following:
 - 14 a. A delicatessen, cafe, cafeteria, restaurant, or another similar retailer
15 that is principally engaged in the retail sale of foods prepared by it
16 for consumption on or off its premises.
 - 17 b. A production company.
- 18 (2) A contractor or subcontractor that purchases mill machinery or mill
19 machinery parts or accessories for use in the performance of a contract with
20 a manufacturing ~~industry or~~ plant.
- 21 (3) A subcontractor that purchases mill machinery or mill machinery parts or
22 accessories for use in the performance of a contract with a general contractor
23 that has a contract with a manufacturing ~~industry or~~ plant."

24 **SECTION 17.** G.S. 105-187.52(b) reads as rewritten:

25 "(b) Credit. – A credit is allowed against the tax imposed by this Article for the amount
26 of a sales or use tax, privilege or excise tax, or substantially equivalent tax due and paid to
27 another ~~state.~~ state or for the amount of sales and use tax paid to this State. The credit allowed
28 by this subsection does not apply to tax paid to another state that does not grant a similar credit
29 for the privilege tax paid in North Carolina."

30 **SECTION 18.** G.S. 105-236.1(a) reads as rewritten:

31 "(a) General. – The Secretary may appoint employees of the Unauthorized Substances
32 Tax Section of the Tax Enforcement Division to serve as revenue law enforcement officers
33 having the responsibility and subject-matter jurisdiction to enforce the excise tax on
34 unauthorized substances imposed by Article 2D of this Chapter.

35 The Secretary may appoint up to 11 employees of the Motor Fuels ~~Tax~~ Investigations
36 Section of the Tax Enforcement Division to serve as revenue law enforcement officers having
37 the responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels imposed
38 by Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

39 The Secretary may appoint employees of the Criminal Investigations Section of the Tax
40 Enforcement Division to serve as revenue law enforcement officers having the responsibility
41 and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

- 42 (1) The felony and misdemeanor tax violations in G.S. 105-236.
- 43 (2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.
- 44 (3) The following criminal offenses when they involve a tax imposed under
45 Chapter 105 of the General Statutes:
 - 46 a. G.S. 14-91 (Embezzlement of State Property).
 - 47 b. G.S. 14-92 (Embezzlement of Funds).
 - 48 c. G.S. 14-100 (Obtaining Property By False Pretenses).
 - 49 c1. G.S. 14-113.20 (Identity Theft).
 - 50 c2. G.S. 14-133.20A (Trafficking in Stolen Identities).
 - 51 d. G.S. 14-119 (Forgery).

1 e. G.S. 14-120 (Uttering Forged Paper).

2 f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes)."

3 **SECTION 19.** G.S. 105-242.2(b) reads as rewritten:

4 "(b) Responsible Person. – Each responsible person in a business entity is personally and
5 individually liable for all of the taxes listed in this subsection. In each case, the term 'taxes'
6 specifically includes any interest and penalties included in the assessment against the business
7 entity that remain unpaid. If a business entity does not pay a tax it owes after the tax becomes
8 collectible under G.S. 105-241.22, the Secretary may enforce the responsible person's liability
9 for the tax by sending the responsible person a notice of proposed assessment in accordance
10 with G.S. 105-241.9. The taxes for which a responsible person may be held personally and
11 individually liable are:

12 (1) All sales and use taxes collected by the business entity upon its taxable
13 transactions.

14 (2) All sales and use taxes due upon taxable transactions of the business entity
15 but upon which it failed to collect the tax, but only if the person knew, or in
16 the exercise of reasonable care should have known, that the tax was not
17 being collected.

18 (3) All taxes due from the business entity pursuant to the provisions of Articles
19 36C and 36D of Subchapter V of this Chapter and all taxes payable under
20 those Articles by it to a supplier for remittance to this State or another state.

21 (4) All income taxes required to be withheld from the wages of employees of
22 the business entity."

23 **SECTION 20.** G.S. 105-256(a)(9) is repealed.

24 **SECTION 21.** G.S. 105-259(b) reads as rewritten:

25 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
26 access to tax information in the course of service to or employment by the State may not
27 disclose the information to any other person except as provided in this subsection. Standards
28 used or to be used for the selection of returns for examination and data used or to be used for
29 determining the standards may not be disclosed for any purpose. All other tax information may
30 be disclosed only if the disclosure is made for one of the following purposes:

31 ...

32 (15a) To furnish to ~~the head of the~~ appropriate ~~State or local, state, or federal~~ law
33 enforcement ~~agency~~ agency, including a prosecutorial agency, information
34 concerning the commission of an offense under the jurisdiction of that
35 agency ~~discovered by when~~ the Department during has initiated a criminal
36 investigation of the taxpayer.

37 ...

38 (29) To provide to the Economic Investment Committee established pursuant to
39 G.S. ~~143B-437.48-143B-437.54~~ information necessary to implement ~~Part 2F~~
40 ~~of Article 10 of Chapter 143B of the General Statutes~~ economic
41 development programs under the responsibility of the Committee."

42 **SECTION 22.** Section 6A.3(d) of S.L. 2012-142 reads as rewritten:

43 **"SECTION 6A.3.(d)** Funding. – Of funds generated from increased revenues or cost
44 savings as compared to the baselines established by subdivision (1) of subsection (c) of this
45 section, in the General Fund, the Highway Fund, and that State portion of the Unauthorized
46 Substance Tax collections of the Special Revenue Fund, the sum of up to a total of sixteen
47 million dollars (\$16,000,000) may be ~~used~~ authorized by the Office of State Budget and
48 Management to make purchases related to the implementation of the additional public-private
49 arrangement authorized by this section, including payment for services from non-State
50 entities."

51 **SECTION 23.** G.S. 105-113.112 reads as rewritten:

1 **"§ 105-113.112. Confidentiality of information.**

2 (a) Information obtained by the Department in the course of administering the tax
3 imposed by this Article, including information on whether the Department has issued a revenue
4 stamp to a person, is confidential tax information and is subject to the ~~following restrictions on~~
5 ~~disclosure:~~

6 (1) ~~G.S. 105-259 prohibits the disclosure of the information, except in the~~
7 ~~limited circumstances provided in that statute.~~

8 (2) ~~The information provisions of G.S. 105-259.~~

9 (b) Information obtained by the Department from the taxpayer in the course of
10 administering the tax imposed by this Article, including information on whether the
11 Department has issued a revenue stamp to a person, may not be used as evidence, as defined in
12 G.S. 15A-971, by a prosecutor in a criminal prosecution of the taxpayer for an offense other
13 than an offense under this Article or under Article 9 of this Chapter, related to the
14 manufacturing, possession, transportation, distribution, or sale of the unauthorized substance.
15 Under this prohibition, no officer, employee, or agent of the Department may testify about
16 this information in a criminal prosecution of the taxpayer for an offense related to the
17 manufacturing, possession, transportation, distribution, or sale of the unauthorized
18 substance other than an offense under this Article or under Article 9 of this Chapter. This
19 subdivision—subsection implements the protections against double jeopardy and
20 self-incrimination set out in Amendment V of the United States Constitution and the
21 restrictions in it apply regardless of whether information may be disclosed under G.S. 105-259.
22 This subdivision does not apply to information obtained from a source other than an employee,
23 officer, or agent of the Department. This subdivision does not prohibit testimony by an officer,
24 employee, or agent of the Department concerning an offense committed against that individual
25 in the course of administering this Article. An officer, employee, or agent of the Department
26 who provides evidence or testifies in violation of this subdivision is guilty of a Class 1
27 misdemeanor."

28 **SECTION 24.(a)** G.S. 105-113.4A reads as rewritten:

29 **"§ 105-113.4A. Licenses.**

30 (a) General. – To obtain a license required by this Article, an applicant must ~~apply to~~
31 file an application with the Secretary on a form provided by the Secretary and pay the tax due
32 for the license. An application must include the applicant's name, address, federal employer
33 identification number, and any other information required by the Secretary. A license is not
34 transferable or assignable and must be displayed at the place of business for which it is issued.

35 (b) Requirements. – An applicant for a license must meet the following requirements:

36 (1) If the applicant is a corporation, the applicant must either be incorporated in
37 this State or be authorized to transact business in this State.

38 (2) If the applicant for a license is a limited liability company, the applicant
39 must either be organized in this State or be authorized to transact business in
40 this State.

41 (3) If the applicant for a license is a limited partnership, the applicant must
42 either be formed in this State or be authorized to transact business in this
43 State.

44 (4) If the applicant for a license is an individual or a general partnership, the
45 applicant must designate an agent for service of process and give the agent's
46 name and address.

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

51 (1) Submitted false or misleading information on its application.

- 1 (2) Had a license issued under this Article cancelled by the Secretary for cause.
 2 (3) Had a tobacco products license or registration issued by another state
 3 cancelled for cause.
 4 (4) Been convicted of fraud or misrepresentation.
 5 (5) Been convicted of any other offense that indicates the applicant may not
 6 comply with this Article if issued a license.
 7 (6) Failed to remit payment for a tax debt under this Chapter. The term 'tax debt'
 8 has the same meaning as defined in G.S. 105-243.1.
 9 (7) Failed to file a return due under this Chapter.

10 ~~(b)(d)~~ Refund. – A refund of a license tax is allowed only when the tax was collected or
 11 paid in error. No refund is allowed when a license holder surrenders a license or the Secretary
 12 revokes a license.

13 ~~(e)(e)~~ Duplicate or Amended License. – Upon application to the Secretary, a license
 14 holder may obtain without charge ~~one of the following:~~ a duplicate or amended license as
 15 provided in this subsection. A duplicate or amended license must state that it is a duplicate or
 16 amended license, as appropriate.

- 17 (1) A duplicate license, if the license holder establishes that the original license
 18 has been lost, destroyed, or defaced.
 19 (2) An amended license, if the license holder establishes that the location of the
 20 place of business for which the license was issued has changed.

21 ~~A duplicate or amended license shall state that it is a duplicate or amended license, as~~
 22 ~~appropriate.~~

23 (f) Information on License. – The Secretary must include the following information on
 24 each license required by this Article:

- 25 (1) The legal name of the license holder.
 26 (2) The name under which the license holder conducts business.
 27 (3) The physical address of the place of business of the license holder.
 28 (4) The account number assigned to the license by the Department.

29 (g) Records. – The Secretary must keep a record of the following:

- 30 (1) Applicants for a license under this Article.
 31 (2) Persons to whom a license has been issued under this Article.
 32 (3) Persons that hold a current license issued under this Article, by license
 33 category.

34 (h) Lists. – The Secretary must provide the list required under subsection (g) of this
 35 section upon request of a manufacturer that is a license holder under this Article. The list must
 36 state the name, account number, and business address of each license holder on the list."

37 **SECTION 24.(b)** G.S. 105-113.4B reads as rewritten:

38 "**§ 105-113.4B. Reasons why the Secretary can cancel a license.**

39 (a) Reasons. – The Secretary may cancel a license issued under this Article upon the
 40 written request of the license holder. The Secretary may summarily cancel the license of a
 41 license holder when the Secretary finds that the license holder is incurring liability for the tax
 42 imposed under this Article after failing to pay a tax when due under this Article. In addition,
 43 the Secretary may cancel the license of a license holder that commits one or more of the
 44 following acts after holding a hearing on whether the license should be cancelled:

- 45 (1) ~~A violation of this Article.~~ Fails to obtain a license required by this Article.
 46 (2) Willfully fails to file a return required by this Article.
 47 (3) Willfully fails to pay a tax when due under this Article.
 48 (4) Makes a false statement in an application or return required under this
 49 Article.
 50 (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 ~~(2)~~(9) A violation of Violates G.S. 14-401.18.

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

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

17 (1) Return an irrevocable letter of credit to the license holder.

18 (2) Return a bond to the license holder or notify the person liable on the bond
19 and the license holder that the person is released from liability on the bond."

20 **SECTION 24.(c)** G.S. 105-113.13 reads as rewritten:

21 **"§ 105-113.13. Secretary may ~~investigate applicant for distributor's license and require a~~**
22 **~~bond, bond or irrevocable letter of credit.~~**

23 ~~(a) Investigation.—The Secretary may investigate an applicant for a distributor's license~~
24 ~~to determine if the information the applicant submits with the application is accurate and if the~~
25 ~~applicant is eligible to be licensed as a distributor. The Secretary may decline to issue a~~
26 ~~distributor's license to an applicant when the Secretary has reasonable cause to believe any of~~
27 ~~the following:~~

28 ~~(1) That the applicant has willfully withheld information requested by the~~
29 ~~Secretary for the purpose of determining the applicant's eligibility for the~~
30 ~~license.~~

31 ~~(2) That information submitted with the application is false or misleading.~~

32 ~~(3) That the application is not made in good faith.~~

33 ~~(b) Bond.—The Secretary may require a distributor to furnish a bond in an amount that~~
34 ~~adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A~~
35 ~~bond shall be conditioned on compliance with this Part, shall be payable to the State, and shall~~
36 ~~be in the form required by the Secretary. The Secretary shall set the bond amount based on the~~
37 ~~anticipated tax liability of the distributor. The Secretary shall periodically review the~~
38 ~~sufficiency of bonds required of the distributor and shall increase the amount of a required~~
39 ~~bond if the bond amount no longer covers the anticipated tax liability of the distributor. The~~
40 ~~Secretary shall decrease the amount of a required bond if the Secretary finds that a lower bond~~
41 ~~amount will protect the State adequately from loss. For purposes of this section, a bond may~~
42 also include an irrevocable letter of credit."

43 **SECTION 25.(a)** G.S. 105-164.3 reads as rewritten:

44 **"§ 105-164.3. Definitions.**

45 The following definitions apply in this Article:

46 (1) Advertising and promotional direct mail. – Printed material that meets the
47 definition of 'direct mail' and the primary purpose of which is to attract
48 public attention to a product, person, business, or organization, or to attempt
49 to sell, popularize, or secure financial support for a product, person,
50 business, or organization. As used in this subdivision, 'product' means
51 tangible personal property, digital property, or a service.

1 (1)(1a) Analytical services. – Testing laboratories that are included in national
2 industry 541380 of NAICS or medical laboratories that are included in
3 national industry 621511 of NAICS.

4 (1a)(1b) Ancillary service. – A service associated with or incidental to the
5 provision of a telecommunications service. The term includes detailed
6 communications billing, directory assistance, vertical service, and voice mail
7 service. A vertical service is a service, such as call forwarding, caller ID,
8 three-way calling, and conference bridging, that allows a customer to
9 identify a caller or manage multiple calls and call connections.

10 (1b)(1c) through (1d)(1e) Reserved for future codification purposes.

11 (1e)(1f) Audio work. – A series of musical, spoken, or other sounds, including a
12 ringtone.

13 (1f)(1g) Reserved for future codification purposes.

14 (1g)(1h) Audiovisual work. – A series of related images and any sounds
15 accompanying the images that impart an impression of motion when shown
16 in succession.

17 (1h)(1i) Reserved for future codification purposes.

18 (1i)(1j) Bundled transaction. – A retail sale of two or more distinct and identifiable
19 products, at least one of which is taxable and one of which is exempt, for
20 one nonitemized price. Products are not sold for one nonitemized price if an
21 invoice or another sales document made available to the purchaser separately
22 identifies the price of each product. A bundled transaction does not include
23 the retail sale of any of the following:

- 24 a. A product and any packaging item that accompanies the product and
25 is exempt under G.S. 105-164.13(23).
- 26 b. A sale of two or more products whose combined price varies, or is
27 negotiable, depending on the products the purchaser selects.
- 28 c. A sale of a product accompanied by a transfer of another product
29 with no additional consideration.
- 30 d. A product and the delivery or installation of the product.
- 31 e. A product and any service necessary to complete the sale.

32 (1j)(1k) Reserved for future codification purposes.

33 (1k)(1l) Business. – An activity a person engages in or causes another to engage
34 in with the object of gain, profit, benefit, or advantage, either direct or
35 indirect. The term does not include an occasional and isolated sale or
36 transaction by a person who does not claim to be engaged in business.

37 (1l)(1m) Reserved for future codification purposes.

38 (1m)(1n) Cable service. – The one-way transmission to subscribers of video
39 programming or other programming service and any subscriber interaction
40 required to select or use the service.

41 "

42 **SECTION 25.(b)** G.S. 105-164.4B(d) reads as rewritten:

43 "(d) Exceptions. – This section does not apply to the following:

- 44 (1) Telecommunications services. – Telecommunications services are sourced in
45 accordance with G.S. 105-164.4C.
- 46 (2) Direct mail. – Direct mail ~~that meets one of the following descriptions is~~
47 ~~sourced to the location where the property is delivered, and direct mail that~~
48 ~~does not meet one of these descriptions is sourced to the location from which~~
49 ~~the direct mail was shipped; is sourced as follows:~~
50 a. Direct mail To the location where the direct mail is delivered if it (i)
51 is purchased pursuant to a direct pay ~~permit~~ permit; or (ii) when

- 1 b. ~~When~~ the purchaser provides the seller with information to show the
2 jurisdictions to which the direct mail is to be delivered.
- 3 b. To the location from which the direct mail was shipped if (i) it is
4 advertising and promotional direct mail; and (ii) sub-subdivision a. of
5 this subdivision does not apply.
- 6 c. To the location indicated by an address for the purchaser that is
7 available from the business records of the seller that are maintained
8 in the ordinary course of the seller's business when use of this
9 address does not constitute bad faith if neither sub-subdivision a. nor
10 b. of this subdivision applies.
- 11 (3) Florist wire sale. – A florist wire sale is sourced to the business location of
12 the florist that takes an order for the sale. A "florist wire sale" is a sale in
13 which a retail florist takes a customer's order and transmits the order to
14 another retail florist to be filled and delivered."

15 **SECTION 26.(a)** Section 7 of S.L. 2011-296 reads as rewritten:

16 **"SECTION 7.** This act becomes effective October 1, 2011, and applies to instruments
17 registered on or after that date. ~~Sections 1 through 3 of this act expire July 1, 2013."~~

18 **SECTION 26.(b)** The lead-in language for Section 2.16 of S.L. 2012-79 reads as
19 rewritten:

20 **"SECTION 2.16.** Effective when it becomes law, ~~but expiring at the same time as Section~~
21 ~~4 of S.L. 2011-296 expires (currently July 1, 2013),~~ law, G.S. 161-10(a), as rewritten by S.L.
22 2011-296, reads as rewritten:"

23 **SECTION 27.** Sections 5, 6, and 7 of this act are effective for taxable years
24 beginning on or after January 1, 2012. Section 24 of this act becomes effective July 1, 2013.
25 The remainder of this act is effective when it becomes law.