

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-204
SENATE BILL 628

AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS.

The General Assembly of North Carolina enacts:

PART I. BUSINESS TAX CHANGES

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

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

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

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

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

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

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

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

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

...."

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

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

...

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

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

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



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

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

- ~~(1) The proportion of its net worth as set out in subsection (c1) of this section, which amount shall not be less than fifty five percent (55%)~~ section.
- ~~(2) Fifty-five percent (55%) of the corporation's appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each corporation nor less than its State. For purposes of this subdivision, the appraised value of tangible property, including real estate, is the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return.~~
- ~~(3) The corporation's total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the return is due, a franchise or privilege tax at the rate of one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the total amount of net worth as provided in this section. The tax imposed in this section shall not be less than two hundred dollars (\$200.00) and is for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each corporation in this State. Appraised value of tangible property including real estate is the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. The term "total State. For purposes of this subdivision, the total actual investment in tangible property" as used in this section means property in this State is the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes.~~

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

...."
SECTION 1.3.(b) G.S. 105-122(d), as amended by subsection (a) of this section, reads as rewritten:

"(d) Tax Base. – A corporation's tax base is the greatest of the following:

- ...
- (3) The corporation's total actual investment in tangible property in this State. For purposes of this subdivision, the total actual investment in tangible property in this State is the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less (i) reserve for depreciation as permitted for income tax ~~purposes~~ purposes and (ii) any

indebtedness specifically incurred and existing solely for and as the result of the purchase of any real estate and any permanent improvements made on the real estate."

SECTION 1.3.(c) If Senate Bill 257, 2017 Regular Session, becomes law, then Section 38.6(a) of that act is rewritten to read:

"SECTION 38.6.(a) G.S. 105-122(d2) reads as rewritten:

"(d2) Tax Rate. – ~~The~~ For a C corporation, as defined in G.S. 105-130.2, tax rate is one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the corporation's tax base as determined under subsection (d) of this section. For an S Corporation, as defined in G.S. 105-130.2, the tax rate is two hundred dollars (\$200.00) for the first one million dollars (\$1,000,000) of the corporation's tax base as determined under subsection (d) of this section and one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of its tax base that exceeds one million dollars (\$1,000,000). ~~The~~ In no event may the tax imposed ~~in~~ by this section ~~shall not~~ be less than two hundred dollars (\$200.00)."

SECTION 1.3.(d) Subsection (b) of this section becomes effective for taxable years beginning on or after January 1, 2020, and is applicable to the calculation of franchise tax reported on the 2019 and later corporate income tax returns. The remainder of this section is effective when it becomes law.

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

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

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

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

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

(a) As used in this section, unless the context otherwise requires: Definitions. – The following definitions apply in this section:

- (1) "Apportionable income" means all Apportionable income. – All income that is apportionable under the United States ~~Constitution~~ Constitution, including income that arises from either of the following:
 - a. Transactions and activities in the regular course of the taxpayer's trade or business.
 - b. Tangible and intangible property if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer's trade or business.
- (2) Business activity. – Any activity by a corporation that would establish nexus, except as limited by 15 U.S.C. § 381.
- (3) Casual sale of property. – The sale of any property that was not purchased, produced, or acquired primarily for sale in the corporation's regular trade or business.
- (4) "Commercial domicile" means the Commercial domicile. – The principal place from which the trade or business of the taxpayer is directed or managed.

- ~~(3)(5)~~ "Compensation" means ~~wages, Compensation.~~ – Wages, salaries, commissions and any other form of remuneration paid to employees for personal services.
- (4) ~~"Excluded corporation" means any corporation engaged in business as a building or construction contractor, a securities dealer, or a loan company or a corporation that receives more than fifty percent (50%) of its ordinary gross income from intangible property.~~
- ~~(5)(6)~~ "Nonapportionable income" means all Nonapportionable income. – All income other than apportionable income.
- (6) ~~"Public utility" means any corporation that is subject to control of one or more of the following entities: the North Carolina Utilities Commission, the Federal Communications Commission, the Federal Energy Regulatory Commission, or the Federal Aviation Agency; and that owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, the transportation of goods or persons, or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam, oil, oil products, or gas. The term also includes a motor carrier of property whose principal business activity is transporting property by motor vehicle for hire over the public highways of this State.~~
- (7) "Sales" means all Sales. – All gross receipts of the corporation except for the following receipts:
- ...
- (8) ~~"Casual sale of property" means the sale of any property which was not purchased, produced or acquired primarily for sale in the corporation's regular trade or business.~~
- ~~(9)(8)~~ "State" means any State. – A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

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

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

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

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

...

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

...

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

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

...

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

...

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

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

The following definitions apply in this subsection:

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

(n) ~~All apportionable income of a telephone company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is gross operating revenue from local service in this State plus gross operating revenue from toll services performed wholly within this State plus the proportion of revenue from interstate toll services attributable to this State as shown by the records of the company plus the gross operating revenue in North Carolina from other service less the uncollectible revenue in this State, and the denominator of which is the total gross operating revenue from all business done by the company everywhere less total uncollectible revenue. Provided, that where a telephone company is required to keep its records in accordance with the standard classification of accounts prescribed by the Federal~~

~~Communications Commission the amounts in such accounts shall be used in computing the apportionment fraction as provided in this subsection.~~

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

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

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

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

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

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

The following definitions apply in this subsection:

- (1) Excluded corporation. – Any corporation engaged in business as a building or construction contractor, a securities dealer, or a loan company or a corporation that receives more than fifty percent (50%) of its ordinary gross income from intangible property.
- (2) Public utility. – Any corporation that is subject to control of one or more of the following entities: the North Carolina Utilities Commission, the Federal Communications Commission, the Federal Energy Regulatory Commission, or the Federal Aviation Agency; and that owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, the transportation of goods or persons, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, oil, oil products, or gas. The term also includes a motor carrier of property whose principal business activity is transporting property by motor vehicle for hire over the public highways of this State.

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

...

(s2) Pipeline Company. – Receipts from transportation of a petroleum-based liquids pipeline company shall be apportioned by multiplying the income by a fraction, the numerator of which is the number of barrel miles in this State during the tax year and the denominator of which is the total number of barrel miles everywhere during the tax year. For purposes of this section, the term "barrel mile" means one barrel of liquid property transported one mile.

...."

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

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

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

"(b) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition, the following definitions apply in this section:

...
(3a) Proportionate share of interest. – The amount of taxpayer's net interest expense paid or accrued directly to or through a related member to an ultimate payer divided by the total net interest expense of all related members that is paid or accrued directly to or through a related member to the same ultimate payer, multiplied by the interest paid or accrued to a person who is not a related member by the ultimate payer. Any amount that is distributed, paid, or accrued directly or through a related member that is not treated as interest under this Part does not qualify. In determining whether a nominal debt instrument creates deductible interest allowable under this section, the Secretary will not apply the covered debt instrument rules contained in the regulations promulgated under section 385 of the Code.

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

...."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 1.9.(f) G.S. 105-154 reads as rewritten:

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

...

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

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

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

...."

SECTION 1.9.(g) The General Assembly finds that the amendments made by this section clarify the intent of the existing law and do not represent a change in the law. Accordingly, subsections (a) and (c) of this section apply to taxable years beginning before January 1, 2014, subsections (b) and (d) of this section apply to taxable years beginning on or after January 1, 2014, and subsection (f) of this section applies to all taxable years.

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

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

SECTION 1.11.(b) A taxpayer that elected to take a business energy and tax credit against the gross premiums tax for a taxable year beginning before January 1, 2017, may take an installment or carryforward of the credit against the additional tax imposed under G.S. 105-228.5(d)(3) for taxable years beginning before January 1, 2017. A taxpayer may not take an installment or carryforward of the credit against the additional tax imposed under G.S. 105-228.5(d)(3) for taxable years beginning on or after January 1, 2017. A taxpayer may apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the benefit enacted by this subsection. A request for a refund must be made on or before January 1, 2018. A request for a refund received after this date is barred.

SECTION 1.11.(c) The gross premiums tax is a tax imposed on the gross premiums of insurers, Article 65 corporations, health maintenance organizations, and self-insurers. Entities subject to the gross premiums tax are not subject to franchise or income taxes. In S.L. 2009-548, the General Assembly broadened the taxes against which the business

and energy tax credits could be taken from income and franchise taxes to income, franchise, and gross premiums taxes.

The gross premiums tax rate is set in G.S. 105-228.5(d)(1) and (2). Separate and apart from the gross premiums taxes, G.S. 105-228.5(d)(3) imposes an additional tax that is calculated using a person's gross premiums but is not considered part of the gross premiums tax imposition. The Department of Revenue has historically administered the gross premium tax and the additional tax imposed under G.S. 105-228.5 as two separate and distinct taxes. Satisfied with this administration, the General Assembly did not address the separate treatment of the two taxes in S.L. 2009-548.

The intent of this section is two-fold, as follows:

- (1) To clarify the accuracy of the Department's interpretation of the current and continuing state of the law by expressly codifying the long-standing interpretation that the additional tax imposed by G.S. 105-228.5(d)(3) is a separate and distinct tax that is based upon gross premiums but is not a gross premiums tax.
- (2) To avoid costly potential litigation with taxpayers that have failed to properly take an installment or carryforward of a business and energy tax credit against only the gross premiums tax by permitting the taxpayers to take installments and carryforwards of that tax credit for taxable years beginning before January 1, 2017, against the additional tax that is imposed under G.S. 105-228.5(d)(3).

SECTION 1.12. G.S. 105-160.2 reads as rewritten:

"§ 105-160.2. Imposition of tax.

The tax imposed by this Part applies to the taxable income of estates and trusts as determined under the provisions of the Code except as otherwise provided in this Part. The taxable income of an estate or trust is the same as taxable income for such an estate or trust under the provisions of the Code, adjusted as provided in G.S. 105-153.5 and G.S. 105-153.6, except that the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6 are apportioned between the estate or trust and the beneficiaries based on the distributions made during the taxable year. The tax is computed on the amount of the taxable income of the estate or trust that is for the benefit of a resident of this State, or for the benefit of a nonresident to the extent that the income (i) is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State or (ii) is derived from a business, trade, profession, or occupation carried on in this State. For purposes of the preceding sentence, taxable income and gross income is computed subject to the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6. The tax on the amount computed above is at the ~~rates~~ rate levied in G.S. 105-153.7. The fiduciary responsible for administering the estate or trust shall pay the tax computed under the provisions of this Part."

SECTION 1.13. G.S. 55-16-22 reads as rewritten:

"§ 55-16-22. Annual report.

(a) Requirement. – Except as provided in subsections (a1) and (a2) of this section, each domestic corporation and each foreign corporation authorized to transact business in this State shall deliver an annual report ~~to the Secretary of Revenue in paper form or, in the alternative,~~ directly to the Secretary of State in electronic form or in paper form as prescribed by the Secretary of State under this section.

(a1) Each insurance company subject to the provisions of Chapter 58 of the General Statutes shall deliver an annual report to the Secretary of State.

(a2) Professional Corporations Exempt. – A ~~domestic~~ corporation governed by Chapter 55B of the General Statutes is exempt from this section.

(a3) Form; Required Information. – The annual report required by this section shall be in a form ~~jointly~~ prescribed by ~~the Secretary of Revenue and the~~ Secretary of State. ~~The Secretary~~

~~of Revenue shall provide the form needed to file an annual report.~~ The Secretary of State shall prescribe the form needed to file an annual report electronically and shall provide this form by electronic means. The annual report shall set forth all of the following:

- (1) The name of the corporation and the state or country under whose law it is incorporated.
- (2) The street address, and the mailing address if different from the street address, of the registered office, the county in which its registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of such registered office or registered agent, or both.
- (3) The address and telephone number of its principal office.
- (4) The names, titles, and business addresses of its principal officers.
- (4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.
- (5) A brief description of the nature of its business.

If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection.

(b) Currency of Information. – Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.

(c) Due Date. – ~~An annual report eligible to be delivered to the Secretary of Revenue is due by the due date for filing the corporation's income and franchise tax returns. An extension of time to file a return is an extension of time to file an annual report. At the option of the filer, an annual report may be filed directly with the Secretary of State in electronic form. An annual report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth month following the close of the corporation's fiscal year.~~

(d) Incomplete Information. – If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and ~~delivered~~ submitted to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(e) Amendments. – Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.

...
(g) ~~When a statement of change of registered office or registered agent is filed in the annual report, the change shall become effective when the statement is received by the Secretary of State.~~

(h) Delinquency. – If the Secretary of State does not receive an annual report within ~~120~~ 60 days of the date the ~~return~~ report is due, the Secretary of State may presume that the annual report is delinquent. This presumption may be rebutted ~~by receipt of the annual report from the Secretary of Revenue or~~ by evidence of delivery presented by the filing corporation."

SECTION 1.14. The Department of Revenue shall study the feasibility and cost of allowing the pass-through of a federal extension of time for filing a federal income tax return to serve as an application for a State extension of time for filing a corporate franchise and other income tax returns. The Department is directed to work with the Internal Revenue Service and consult with or identify other states that use the federal extension to serve as the application for a state extension. On or before January 1, 2018, the Department shall report its findings, along with any legislative recommendations, to the Revenue Laws Study Committee regarding options to eliminate the mandatory State extension of time filing for corporate franchise and other income tax returns beginning January 1, 2019, for the tax year 2018.

PART II. SALES AND USE TAX

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

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

- ...
- (1i) Bundled transaction. – A retail sale of two or more distinct and identifiable products, at least one of which is taxable and one of which is exempt, for one nonitemized price. The term does not apply to real property and services to real property. Products are not sold for one nonitemized price if an invoice or another sales document made available to the purchaser separately identifies the price of each product. A bundled transaction does not include the retail sale of any of the following:
- ...
- (2c) Capital improvement. – One or more of the following:
- a. New construction, reconstruction, or remodeling.
 - b. Performance of work that requires the issuance of a permit under the State Building Code, other than repair or replacement of electrical components, gas logs, water heater, and similar individual items that are not part of new construction, reconstruction, or remodeling.
 - c. Installation of utilities on utility-owned land, right-of-way, or easement, notwithstanding that charges for such may be included in the gross receipts derived from services subject to the combined general rate under G.S. 105-164.4.
 - d. Installation of equipment or a fixture that is attached to real property and that meets one or more of the following conditions:
 1. Is capitalized and depreciated under Generally Accepted Accounting Principles or International Financial Reporting Standards.
 2. Is depreciated under the Code.
 3. Is expensed under Section 179 of the Code.
 - e. Painting or wallpapering of real property, except where painting or wallpapering is incidental to the repair, maintenance, and installation service.
 - f. Replacement or installation of a septic tank system, siding, roof, 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. Replacement or installation of a heating or air conditioning unit or a heating, ventilation, or air conditioning 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. Replacement or installation of roads, driveways, parking lots, patios, decks, and sidewalks.
 - i. 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.

- j. Landscaping.
- k. Addition or alteration to real property that is permanently affixed or installed to real property and is not an activity listed in subdivision (33l) of this section as a repair, maintenance, and installation service.

...

(1d) Freestanding appliance. – A machine commonly thought of as an appliance operated by gas or electric current. Examples include installation of a dishwasher, washing machine, clothes dryer, refrigerator, freezer, microwave, and range, regardless of whether the range is slide-in or drop-in.

...

(16e) ~~Landscaping service.~~ Landscaping. – A service to maintain or improve lawns, yards, or ornamental plants and trees that modifies the living elements of an area of land. Examples include the installation of trees, shrubs, or flowers; flowers on land; tree trimming; lawn mowing; and the application of seed, mulch, pine straw, pesticide, or fertilizer to a lawn or yard an area of land. The term does not include services to trees, shrubs, flowers, and similar items in pots or in buildings.

...

(20b) Mixed transaction contract. – A contract that includes both a real property contract for a capital improvement and a repair, maintenance, and installation service that is not related to the capital improvement.

...

(23a) Motor vehicle service contract. – A service contract for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle when sold by a motor vehicle dealer or by or on behalf of dealer, by a motor vehicle service agreement company for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle. company, or by a motor vehicle dealer on behalf of a motor vehicle service agreement company. For purposes of this subdivision, the term "motor vehicle dealer" has the same meaning as defined in G.S. 20-286 and the term "motor vehicle service agreement company" has the same meaning as defined in G.S. 66-370. is a person other than a motor vehicle dealer that is an obligor of a service contract for a motor vehicle or for one or more components, systems, or accessories for a motor vehicle and who is not an insurer.

...

(24a) 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.

...

(33d) Real property. – Any one or more of the following:

- a. Land.
- b. Building or structure on land.
- c. Permanent fixture on land.
- d. A manufactured home or a modular home ~~that is placed on a permanent foundation on land.~~

(33e) Real property contract. – A contract between a real property contractor and another person to perform construction, reconstruction, or remodeling with respect to a capital improvement to real property.

(33f) Real property contractor. – A person that contracts to perform a real property contract in accordance with G.S. 105-164.4H. The term includes a general

contractor, a subcontractor, or a builder for purposes of ~~G.S. 105-164.4H~~this Article.

- (33g) 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.
- (33h) Related member. – Defined in G.S. 105-130.7A.
- (33i) Remodeling. – A transaction comprised of multiple services performed by one or more persons to restore, improve, alter, or update real property that may otherwise be subject to tax as repair, maintenance, and installation services if separately performed. The term includes a transaction where the internal structure or design of one or more rooms or areas within a room or building are substantially changed. The term does not include a single repair, maintenance, and installation service. The term does not include a transaction where the true purpose is a repair, maintenance, and installation service no matter that another repair, maintenance, and installation service is performed that is incidental to the true purpose of the transaction; examples include repair of sheetrock that includes applying paint, replacement of cabinets that includes installation of caulk or molding, and the installation of hardwood floors that includes installation of shoe molding.
- ~~(33h)~~(33j) Remote sale. – A sale of tangible personal property or digital property ordered by mail, by telephone, via the Internet, or by another similar method, to a purchaser who is in this State at the time the order is remitted, from a retailer who receives the order in another state and delivers the property or causes it to be delivered to a person in this State. It is presumed that a resident of this State who remits an order was in this State at the time the order was remitted.
- (33k) Renovation. – Same meaning as the term "remodeling."
- ~~(33i)~~(33l) Repair, maintenance, and installation services. – The term includes the activities listed in this subdivision and applies to tangible personal property, motor vehicle, digital property, and real ~~property except tangible personal property or digital property installed or applied by a real property contractor pursuant property.~~ The term does not include services used to fulfill a real property contract taxed in accordance with G.S. 105-164.4H:
- a. To keep or attempt to keep property or a motor vehicle in working order to avoid breakdown and prevent deterioration or repairs. Examples include to clean, wash, or polish property.
 - b. To calibrate, refinish, restore, or attempt to calibrate, refinish, or restore property or a motor vehicle to proper working order or good condition. This activity may include replacing or putting together what is torn or broken.
 - c. To troubleshoot, identify, or attempt to identify the source of a problem for the purpose of determining what is needed to restore property or a motor vehicle to proper working order or good condition. The term includes activities that may lead to the issuance of an inspection report.
 - d. To install, apply, connect, adjust, or set into position tangible personal property, digital property, or a motor vehicle. The term includes floor refinishing and the installation of carpet, flooring, floor coverings, windows, doors, cabinets, countertops, and other installations where the item being installed may replace a similar existing item. The replacement of more than one of a like-kind item,

such as replacing one or more windows, is a single repair, maintenance, and installation service. The term does not include an installation defined as a capital improvement under subdivision (2c)d. of this section.

- e. To inspect or monitor property or a motor vehicle, but does not include security or similar monitoring services for real property.

...

- (38b) Service contract. – A contract where the obligor under the contract agrees to maintain, monitor, inspect, ~~or repair~~ repair, or provide another service included in the definition of repair, maintenance, and installation service to digital property or property, tangible personal property, or real property for a period of time or some other defined ~~measure, regardless of whether the property becomes a part of or is applied to real property.~~ measure. The term does not include a single repair, maintenance, or installation ~~service.~~ service, but does include a contract where the obligor may provide a service included in the definition of repair, maintenance, and installation services as a condition of the contract. The term includes a service contract for a pool, fish tank, or similar aquatic feature and a home warranty. Examples include a warranty agreement other than a manufacturer's warranty or dealer's warranty provided at no charge to the purchaser, an extended warranty agreement, a maintenance agreement, a repair ~~contract, agreement,~~ agreement, or a similar agreement or contract.

...."

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

"(a) A privilege tax is imposed on a retailer engaged in business in the State at the percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as follows:

- (1) The general rate of tax applies to the sales price of each item or article of tangible personal property that is sold at retail and is not subject to tax under another subdivision in this section. A sale of a freestanding appliance is a retail sale of tangible personal property. This subdivision does not apply to repair, maintenance, and installation services for real property; these services are taxable under subdivision (16) of this subsection.
- (1a) The general rate applies to the sales price of each of the following items sold at retail, including all accessories attached to the item when it is delivered to the purchaser:
 - a. A manufactured home.
 - b. A modular home. The sale of a modular home to a modular homebuilder is considered a retail ~~sale.~~ sale, no matter that the modular home may be used to fulfill a real property contract. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home.
 - c. An aircraft. The maximum tax is two thousand five hundred dollars (\$2,500) per article.
 - d. A qualified jet engine.

...

(13) ~~The general rate of tax applies to the sales price of an item or service subject to tax under this Article sold to a real property contractor for use by the real property contractor or to fulfill a real property contract. These sales are taxed in accordance with G.S. 105-164.4H.~~

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

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

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

...."

SECTION 2.4.(a) G.S. 105-164.4H(b1) and (e) are repealed.

SECTION 2.4.(b) G.S. 105-164.4H, as amended by subsection (a) of this section, reads as rewritten:

"§ 105-164.4H. Real property contract.

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

(a1) Substantiation. – Generally, services to real property are retail sales of or the gross receipts derived from, repair, maintenance, and installation services and subject to tax in accordance with G.S. 105-164.4(a)(16), unless a person substantiates that a transaction is subject to tax as a real property contract in accordance with subsection (a) of this section, subject to tax as a mixed transaction in accordance with subsection (d) of this section, or the transaction is not subject to tax. A person may substantiate that a transaction is a real property contract or a mixed transaction by records that establish the transaction is a real property contract or by receipt of an affidavit of capital improvement. The receipt of an affidavit of capital improvement, absent fraud or other egregious activities, establishes that the subcontractor or other person receiving the affidavit should treat the transaction as a capital improvement, and the transaction is subject to tax in accordance with subsection (a) of this section. A person that issues an affidavit of capital improvement is liable for any additional tax due on the transaction, in excess of tax paid on related purchases under subsection (a) of this section, if it is determined that the transaction is not a capital improvement but rather the transaction is subject to tax as a retail sale. A person who receives an affidavit of capital improvement from another person, absent fraud or other egregious activities, is not liable for any additional tax on the gross receipts from the transaction if it is determined that the transaction is not a capital improvement.

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

(b) Retailer-Contractor. – This section applies to a retailer-contractor as follows:

- (1) Acting as a real property contractor. – A retailer-contractor acts as a real property contractor when it contracts to perform a real property contract. A retailer-contractor that purchases tangible personal property or digital property to be installed or applied to real property ~~or a service~~ to fulfill the contract may purchase those items exempt from tax under a certificate of exemption pursuant to G.S. 105-164.28 provided the retailer-contractor also purchases inventory items or services from the seller for resale. When the property is withdrawn from inventory and installed or applied to real property, ~~or when the service is deemed used,~~ use tax must be accrued and paid on the retailer-contractor's purchase price of the property. Property that the retailer-contractor withdraws from inventory for use that does not become part of real property is also subject to the tax imposed by this Article.
- (2) Acting as a retailer. – A retailer-contractor is acting as a retailer when it makes a sale at retail.

...

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

- (1) If the allocated sales price of the taxable repair, maintenance, and installation services included in the contract ~~does not exceed ten percent (10%)~~ is less than or equal to twenty-five percent (25%) of the contract price, then the repair, maintenance, and installation services portion of the contract, and the tangible personal property, digital property, or service used to perform ~~that service,~~ those services, are taxable as a real property contract in accordance with this section.
- (2) If the allocated sales price of the taxable repair, maintenance, and installation services included in the contract is ~~equal to or greater than ten percent (10%)~~ twenty-five percent (25%) of the contract price, then sales and use tax applies to the sales price of or the gross receipts derived from the taxable repair, maintenance, and installation services portion of the contract. The person must determine an allocated price for ~~each the~~ taxable repair, maintenance, and installation service-services in the contract based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business. Any purchase of tangible personal ~~property, digital property, or services~~ property or digital property to fulfill the real property contract ~~are~~ is taxed in accordance with this section."

SECTION 2.4.(c) G.S. 105-164.6(b) reads as rewritten:

"(b) Liability. – The tax imposed by this section is payable by the person who purchases, leases, or rents tangible personal property or digital property or who purchases a service. If the property purchased becomes a part of a ~~building or other structure~~ real property in the State ~~and the purchaser is a contractor or subcontractor,~~ State, the real property contractor, the retailer-contractor, the subcontractor, the lessee, and the owner of the building are jointly and severally liable for the ~~tax.~~ tax, except as provided in G.S. 105-164.4H(a) regarding receipt of an affidavit of capital improvement. The liability of a real property contractor, a retailer-contractor, a subcontractor, a lessee, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

SECTION 2.4.(d) G.S. 105-164.15A(a)(2) reads as rewritten:

"(a) General Rate Items. – The effective date of a tax change for tangible personal property, digital property, or services taxable under this Article is administered as follows:

...

- (2) For a taxable item that is not billed on a monthly or other periodic basis, a tax change applies to amounts received for items provided on or after the effective date, except amounts received for items ~~provided under a lump sum or unit price contract~~ purchased to fulfill a real property contract for a capital improvement entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date."

SECTION 2.4.(e) G.S. 105-468.1 reads as rewritten:

"§ 105-468.1. Certain building materials exempt from sales and use taxes.

The provisions of this Article shall not be applicable with respect to any ~~building materials tangible personal property or digital property~~ purchased for the purpose of fulfilling any lump sum or unit price contract a real property contract for a capital improvement entered into or awarded, or entered into or awarded pursuant to any bid made, before the effective date of the tax imposed by a taxing county when, absent the provisions of this section, such building materials property would otherwise be subject to tax under the provisions of this Article."

SECTION 2.5.(a) G.S. 105-164.4D(a)(6) and G.S. 105-164.4I(b) are repealed.

SECTION 2.5.(b) G.S. 105-164.4I, as amended by subsection (a) of this section, reads as rewritten:

"§ 105-164.4I. Service contracts.

...

(a1) Mixed Service Contract. – A service contract for real property that includes two or more services, one of which is subject to tax under this Article and one of which is not subject to tax under this Article, is taxable in accordance with this subsection. Tax applies to the sales price of or gross receipts derived from a mixed service contract unless one of the following applies:

- (1) Allocation. – The person determines an allocated price for the taxable portion of the service contract based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business. In this circumstance, tax applies to the allocated price of the taxable portion of the service contract.
- (2) Ten percent (10%) test. – The allocated price of the taxable portion of the service contract does not exceed ten percent (10%) of the price of the contract.

(c) Exceptions. – The tax imposed by this section does not apply to a ~~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.

...."

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 The sales price 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~~. Except as otherwise provided in this subdivision, property and services used to fulfill either a repair, maintenance, or installation service or a service contract exempt from tax under this subdivision are taxable. The list of repair, maintenance, and installation services and service contracts exempt from tax under this subdivision is as follows:

- a. An item exempt from tax under this Article. Property and services used to fulfill a service or contract exempt under this sub-subdivision are 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.
- 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. Cleaning of real property, except where the service constitutes a part of the gross receipts derived from the rental of an accommodation subject to tax under G.S. 105-164.4 or for a pool, fish tank, or other similar aquatic feature. Examples of cleaning of real property include custodial services, window washing, mold remediation services, carpet cleaning, removal of debris from gutters, removal of dust and other pollutants from ductwork, and power washing other than for a pool.
- e. Services on roads, driveways, parking lots, and sidewalks.
- f. Removal of waste, trash, debris, grease, snow, and other similar items from ~~tangible personal property, including a motor vehicle, and real property, other than a motor vehicle.~~ The exemption applies to household and commercial trash collection and removal services. The exemption applies to the removal of septage from property, including motor vehicles, but does not include removal of ~~waste septage~~ from portable toilets.
- g. ~~Home inspections related to the preparation for or the sale of real property.~~ The following inspections:
 1. An inspection performed where the results are included in a report for the sale or financing of real property.
 2. An inspection of the structural integrity of real property, provided the charge for the inspection is separately stated on the invoice or other documentation given to the purchaser at the time of the sale.
 3. An inspection to a system that is a capital improvement under G.S. 105-164.3(2c)f., provided the inspection is to fulfill a safety requirement and provided the charge for the inspection

is separately stated on the invoice or other documentation given to the purchaser at the time of the sale.

- ~~h.~~ Landscaping service.
- ~~i.~~ h. Alteration and repair of clothing, except where the service constitutes a part of the gross receipts derived from the rental of clothing subject to tax under G.S. 105-164.4 or for alteration and repair of belts and shoes.
- ~~j.~~ i. Pest control service. For purposes of this exemption, the term "pest control service" means the application of pesticides to real property.
- ~~k.~~ j. Moving services. For purposes of this exemption, the term "moving services" means a service for hire to transport or relocate a person's existing belongings to or from any destination.
- ~~l.~~ k. Self-service car ~~washes~~-washes and vacuums.
- l. A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.
- m. A qualified aircraft or a qualified jet engine.
- n. Funeral-related services, including services for the burial of remains. This exemption does not apply to the sale of tangible personal property, such as caskets, headstones, and monuments.
- (o) Services performed on an animal, such as hoof shoeing and microchipping a pet.

...
(61c) Installation charges that are a part of the sales price of tangible personal property purchased by a real property contractor to fulfill a real property contract for an item that is installed or applied to real property, provided the installation charges are separately stated and identified as such on the invoice or other documentation given to the real property contractor at the time of the sale. The exemption also applies to installation charges by a retailer-contractor when performing installation services for a real property contract. The exemption includes any labor costs provided by the real property contractor, including employees' wages, or labor purchased from a third party that would otherwise be included in the definition of "purchase price."

...
(62) An item or repair, maintenance, and installation services purchased or used to maintain, monitor, inspect, or repair tangible personal property or digital property pursuant to fulfill a service contract taxable under this Article if the purchaser of the contract is not charged for the item or services. This exemption does not apply to the purchase of tangible personal property or digital property used to fulfill a service contract for real property where the charge being covered would otherwise be subject to tax as a real property contract. For purposes of this exemption, the term "item" does not include a tool, equipment, supply, or similar tangible personal property that is not deemed to be a component or repair part of the tangible personal ~~property~~ property, real property, or digital property for which a service contract is sold to a purchaser.

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

- a. The sale, lease, or rental of an engine.
- b. The sales price of or gross receipts derived from a service contract on, or repair, maintenance, and installation services for, a transmission, an engine, rear-end gears, and any other item that is purchased, leased, or rented and that is exempt from tax under this subdivision or that is allowed a sales tax refund under G.S. 105-164.14A(a)(5).
- c. ~~For purposes of this subdivision, the term "sale" includes~~ The gross receipts derived from an agreement to provide an engine to a professional motorsports racing team or related member of a team for use in competition in a sanctioned race series, where such agreement does not meet the definition of a "service contract" as defined in G.S. 105-164.3 but may meet the definition of the term "lease or rental" as defined in G.S. 105-164.3. ~~This subdivision expires January 1, 2020.~~

...."

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

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

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

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

...."

SECTION 2.7.(b) This section becomes effective retroactively to March 1, 2016.

SECTION 2.8.(a) If the Secretary of Revenue determines that a seller paid sales and use taxes on a product and the seller uses the product as part of a taxable repair, maintenance, and installation service to real property, the Secretary will allow the seller to offset the sales tax liability on the taxable repair, maintenance, and installation service with the sales and use tax paid on the products provided the retailer can support the amount of tax originally paid. A retailer entitled to a credit for tax originally paid under this provision may reduce taxable receipts by the taxable amount of the credit for the period in which the credit occurs.

SECTION 2.8.(b) The Revenue Laws Study Committee is directed to study the feasibility of providing a seller of taxable repair, maintenance, and installation services to real property the option of paying sales tax on the property used to fulfill the repair, maintenance, and installation service at the time the property is purchased and offsetting the sales tax liability on the taxable repair, maintenance, and installation service with the sales and use tax paid on the products. Subsection (a) of this section provides sellers this option until July 1, 2018. The Revenue Laws Study Committee must recommend to the 2018 Regular Session of the 2017 General Assembly whether this option should be allowed on a permanent basis.

SECTION 2.8.(c) Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-244.3. Sales tax base expansion protection act.

(a) Grace Period. – The Department shall take no action to assess any tax due for a filing period beginning on or after March 1, 2016, and ending before January 1, 2018, if one or more of the conditions of this subsection apply and the retailer did not receive specific written advice from the Secretary for the transactions at issue for the laws in effect for the applicable periods. The conditions are as follows:

- (1) A retailer failed to charge sales tax due on separately stated installation charges that are part of the sales price of tangible personal property or digital property sold at retail.
- (2) A person failed to properly classify themselves as a retailer in retail trade for the period beginning March 1, 2016, and ending December 31, 2016, and did not charge sales tax on all retail transactions but rather treated some transactions as real property contracts in error for sales and use tax purposes. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a transaction erroneously treated as a real property contract.
- (3) A person treated a transaction as a real property contract in error and did not collect sales tax on the transaction as a retail sale. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a transaction erroneously treated as a real property contract.
- (4) A person failed to collect sales tax on the sales price of a service contract for one or more components, systems, or accessories for a motor vehicle on or after March 1, 2016, and prior to January 1, 2017, where the contract was sold by a motor vehicle dealer, a motor vehicle service agreement company, or a motor vehicle dealer on behalf of a motor vehicle service agreement company.
- (5) A person failed to collect sales tax on the retail sale of a service contract for tangible personal property that becomes a part of or is affixed to real property.
- (6) A person failed to collect sales tax on the retail sale of a service contract for a pool, a fish tank, or similar aquatic feature on or after January 1, 2017, and prior to January 1, 2018, provided the person paid tax on any purchases used to fulfill the service contract.
- (7) A person failed to collect sales tax on the sales price of or the gross receipts derived from the retail sale of a home warranty on or after January 1, 2017, and prior to January 1, 2018, provided the warranty includes coverage for real property.
- (8) A person failed to collect sales tax on the portion of a mixed contract for repair, maintenance, and installation services that exceeds ten percent (10%) for a transaction prior to January 1, 2017. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill a mixed contract.
- (9) A person treats a transaction as a real property contract for remodeling instead of the retail sale of repair, maintenance, and installation services sold at retail prior to January 1, 2018. This subdivision does not prohibit the Secretary from assessing use tax on purchases used to fulfill the transaction.

(b) Limitations. – This section does not prohibit the following assessments:

- (1) The assessment of tax collected by a person and not remitted to the Department.

- (2) The assessment of tax due on an amount included in the definition of sales price where a retailer failed to charge or remit the tax, except as allowed under subsection (a) of this section.
- (3) The assessment of use tax on purchases as provided in subsection (a) of this section."

SECTION 2.8.(d) Subsection (a) of this section becomes effective retroactively to January 1, 2017, and expires on July 1, 2018.

SECTION 2.8A. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-244.4. Reduction of certain sales tax assessments.

(a) Reduction – The Secretary may reduce an assessment against a taxpayer for State and local sales and use taxes in the amount as provided in this section and waive any penalties imposed as part of the assessment when the assessment is the result of an audit of the taxpayer by the Department and all of the following apply:

- (1) The taxpayer remitted to the Department all of the sales and use taxes it collected during the audit period.
- (2) The taxpayer had not been informed by the Department in a prior audit to collect sales and use taxes in the circumstance that is the basis of the assessment, as reflected in the written audit comments of the prior audit.
- (3) The taxpayer had not requested and received from the Department a private letter ruling advising to collect sales and use taxes in the circumstance that is the basis of the assessment.
- (4) The assessment is based on the incorrect application of one or both of the following areas of the sales and use tax statutes:
 - a. The failure to collect sales tax on separately stated linen charges where the linens are furnished by a facilitator, rental agent, or other person and the charges are part of the gross receipts derived from the rental of the accommodation taxed in accordance with G.S. 105-164.4F.
 - b. The failure to pay sales or use tax on the rental of linens used by a facilitator, rental agent, or other person in providing the rental of an accommodation taxed in accordance with G.S. 105-164.4F where the facilitator, rental agent, or other person issued a certificate of exemption or the required data elements per G.S. 105-164.28 to the lessor.
- (5) The taxpayer files a written request with the Secretary no later than 120 days following the receipt of a proposed assessment to request the amount of sales or use taxes be reduced as provided in this section citing the specific reasons therefor. A taxpayer who does not agree with a proposed assessment must also file a request for review within 120 days of the date of the notice of proposed assessment as provided in G.S. 105-241.11 in order for a request to reduce the amount of tax as allowed by this section to be considered by the Secretary.

(b) Amount. – A sales and use tax assessment against a taxpayer may be reduced by ninety percent (90%) of the total amount of sales and use tax assessed. The Secretary may also waive all penalties that were imposed as part of the assessment. A reduction of an assessment under this section and the waiver of penalties imposed as part of the assessment apply only to the amount of the assessment attributable to the incorrect application of one or both of the areas of the law listed in subdivision (a)(4) of this section.

(c) Application. – This section applies to the following for a tax period ending prior to January 1, 2018:

- (1) A proposed assessment or portion of a proposed assessment.
- (2) An assessment that becomes collectible under G.S. 105-241.22.
- (3) A pending request for review case.
- (4) This section does not authorize a refund for sales or use taxes that were originally collected and remitted to the Department.

(d) Expiration. – This section is not applicable to an assessment attributable to the incorrect application of one or both areas listed in subdivision (a)(4) of this section for a period beginning on or after January 1, 2018."

SECTION 2.9.(a) 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:

- (1) Tangible personal property, digital property, and services for a farmer may be exempt as provided in G.S. 105-164.13E.

...

- (12) Sales of any of the following items:
 - a. Prosthetic devices for human use.
 - b. Mobility enhancing equipment sold on a prescription.
 - c. Durable medical equipment sold on prescription.
 - d. Durable medical supplies sold on prescription.
 - e. Human blood, including whole, plasma, and derivatives.
 - f. Human tissue, eyes, DNA, or an organ.

...

- (43) Custom computer software. Custom computer software and the portion of prewritten computer software that is modified or enhanced if the modification or enhancement is designed and developed to the specifications of a specific purchaser and the charges for the modification or enhancement are separately ~~stated~~stated on the invoice or similar billing document given to the purchaser at the time of the sale.

...

- (57a) Fuel, piped natural gas, and electricity sold to a ~~secondary metals recycler person subject to tax on certain tangible personal property pursuant to G.S. 105-187.51B(a)(6)~~ for use in recycling at its facility at which the primary activity is recycling.

...."

SECTION 2.9.(b) G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity through reimbursement to an authorized person of the entity for the purchase of tangible personal property and services for use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund must be in writing and must include any information and documentation required by the

Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed an entity under this subsection for ~~a the State's~~ fiscal year may not exceed thirty-one million seven hundred thousand dollars (\$31,700,000).

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

...."

SECTION 2.9.(c) G.S. 105-467 reads as rewritten:

"§ 105-467. Scope of sales tax.

...
(b) Exemptions and Refunds. – The State exemptions and exclusions contained in ~~G.S. 105-164.13 and G.S. 105-164.27A~~ Article 5 of Subchapter I of this Chapter, except for the exemption for food in G.S. 105-164.13B, apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 ~~through G.S. 105-164.14B and G.S. 105-164.14A~~ apply to the local sales and use tax authorized to be levied and imposed under this Article. A refund of an excessive or erroneous State sales tax collection allowed under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be levied and imposed under this Article. The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for ~~a the State's~~ fiscal year may not exceed thirteen million three hundred thousand dollars (\$13,300,000).

Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services. Sales and use tax liability indirectly incurred by the entity ~~on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure as part of a real property contract for real property that is owned or leased by the entity and is being erected, altered, or repaired~~ a capital improvement for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund is due in the same time and manner as provided in G.S. 105-164.14(c). Refunds applied for more than three years after the due date are barred.

(c) Sourcing. – The sourcing principles in ~~G.S. 105-164.4B~~ Article 5 of Subchapter I of this Chapter apply in determining whether the local sales tax applies to a transaction."

SECTION 2.9.(d) G.S. 105-468 reads as rewritten:

"§ 105-468. Scope of use tax.

The use tax authorized by this Article is a tax at the rate of one percent (1%) of the purchase price of ~~each an item or article of tangible personal property transaction~~ that is not sold in the taxing county but is ~~used, consumed, or stored for use~~ storage, use, or consumption in the taxing ~~county.~~ county and sourced in accordance with Article 5 of Subchapter I of this Chapter. The tax applies to the same items that are subject to tax under G.S. 105-467. The collection and administration of this tax shall be in accordance with Article 5 of ~~Chapter 105 of the General Statutes.~~ Subchapter I of this Chapter.

Where a local sales or use tax was due and has been paid ~~with respect to tangible personal property on an item or transaction~~ by the purchaser in another taxing county within the State, or where a local sales or use tax was due and has been paid in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this Article, the tax paid may be credited against the tax imposed under this section by a taxing county upon the same ~~property, property or transaction~~. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county. The Secretary may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax levied under this Article is not subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this Article."

SECTION 2.9.(e) G.S. 105-471 reads as rewritten:

"§ 105-471. Retailer to collect sales tax.

Every retailer whose place of business is in a taxing county shall on and after the levy of the tax herein authorized collect the one percent (1%) local sales tax provided by this Article. A retailer is required to collect a local use tax on a transaction if a local sales tax does not apply to the transaction in accordance with G.S. 105-164.8(c).

The tax to be collected under this Article shall be collected as a part of the sales price ~~of the item of tangible personal property sold, the purchase price of the item of tangible personal property used, or as a part of the charge for the rendering of any services, renting or leasing of tangible personal property, or the furnishing of any accommodation taxable hereunder.~~ of an item or transaction subject to tax in accordance with G.S. 105-467. The tax shall be stated and charged separately from the sales price or purchase price and shall be shown separately on the retailer's sales record and shall be paid by the purchaser to the retailer as trustee for and on account of the State or county wherein the tax is imposed. It is the intent and purpose of this Article that the local sales and use tax herein authorized to be imposed and levied by a taxing county shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the retailer. The Secretary of Revenue shall design, print and furnish to all retailers in a taxing county in which he shall collect and administer the tax the necessary forms for filing returns and instructions to insure the full collection from retailers, and the Secretary may adapt the present form used for the reporting and collecting of the State sales and use tax to this purpose."

SECTION 2.9.(f) G.S. 105-474 reads as rewritten:

"§ 105-474. Definitions; construction of Article; remedies and penalties.

The definitions set forth in ~~G.S. 105-164.3~~ Article 5 of Subchapter I of this Chapter shall apply to this Article insofar as such definitions are not inconsistent with the provisions of this Article, and all other provisions of ~~Article 5 and of Article 9 of Subchapter 1, Chapter 105 of the General Statutes,~~ Articles 5 and 9 of Subchapter I of this Chapter as the same relate to the North Carolina Sales and Use Tax Act shall be applicable to this Article unless such provisions are inconsistent with the provisions of this Article. The administrative interpretations made by the Secretary of Revenue with respect to the North Carolina Sales and Use Tax Act, to the extent not inconsistent with the provisions of this Article, may be uniformly applied in the construction and interpretation of this Article. It is the intention of this Article that the provisions of this Article and the provisions of the North Carolina Sales and Use Tax Act, insofar as practicable, shall be harmonized.

The provisions with respect to remedies and penalties applicable to the North Carolina Sales and Use Tax Act, as contained in ~~Article 5 and Article 9, Subchapter 1, Chapter 105 of~~

~~the General Statutes, Articles 5 and 9 of Subchapter I of this Chapter, shall be applicable in like manner to the tax authorized to be levied and collected under this Article, to the extent that the same are not inconsistent with the provisions of this Article."~~

SECTION 2.9.(g) G.S. 105-187.31 reads as rewritten:

"§ 105-187.31. Tax imposed.

A privilege tax is imposed on a dry-cleaning solvent retailer at a flat rate for each gallon of dry-cleaning solvent sold by the retailer to a dry-cleaning facility. An excise tax is imposed on dry-cleaning solvent purchased ~~outside the State~~ for storage, use, or consumption by a dry-cleaning facility in this State. The rate of the privilege tax and the excise tax is ten dollars (\$10.00) for each gallon of halogenated hydrocarbon-based dry-cleaning solvent and one dollar and thirty-five cents (\$1.35) for each gallon of hydrocarbon-based dry-cleaning solvent. These taxes are in addition to all other taxes."

SECTION 2.9.(h) G.S. 105-164.10 reads as rewritten:

"§ 105-164.10. Retail tax calculation.

For the convenience of the retailer in collecting the tax due under this Article, the Secretary must prescribe tables that compute the tax due on ~~sales by rounding off the amount of tax due to the nearest whole cent.~~ sales. The Secretary must issue a separate table for each rate of tax that may apply to a sale. A retailer is not required to collect tax due under this Article based on a bracket system.

In computing tax due under this Article, the tax computation must be carried to the third decimal place and must round up to the next cent whenever the third decimal place is greater than four. A person liable for tax under this Article may elect to compute the tax due on a transaction on an item or invoice basis and the rounding rule is applied to the aggregate tax due."

SECTION 2.9.(i) If House Bill 59 of the 2017 Regular Session of the 2017 General Assembly becomes law, then G.S. 105-164.3(45a), as amended by Section 5 of House Bill 59, 2017 Regular Session of the 2017 General Assembly, reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

...
(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~December 16, 2016~~ May 11, 2017.

...."

SECTION 2.10.(a) G.S. 105-164.4G(f) is amended by adding a new subdivision to read:

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

...
(6) An event sponsored by a farmer that takes place on farmland and is related to farming activities, such as a corn maze or a tutorial on raising crops or animals. For purposes of this exemption, a farmer is a person who holds a qualifying farmer sales tax exemption certificate and farmland is land that is enrolled in the present-use value program under G.S. 105-277.3."

SECTION 2.10.(b) This section becomes effective retroactively to January 1, 2014.

SECTION 2.11.(a) G.S. 105-164.27A(a3) reads as rewritten:

"(a3) Boat and Aircraft. – A direct pay permit issued under this subsection authorizes its holder to purchase tangible personal property, digital property, or repair, maintenance, and installation services for a boat, an aircraft, or a qualified jet engine without paying tax to the seller and authorizes the seller to not collect any tax on the item or services from the permit

holder. A person who purchases the property or services under a direct pay permit must file a return and pay the tax due to the Secretary ~~by the end of the month following the month in which the property or services are purchased.~~ in accordance with G.S. 105-164.14. A permit holder is allowed a use tax exemption on one or more of the following: (i) the installation charges that are a part of the sales price of tangible personal property or digital property purchased by the permit holder for a boat, an aircraft, or a qualified jet engine, provided the installation charges are separately stated and identified as such on the invoice or other documentation given to the permit holder at the time of the sale and (ii) the sales price of or gross receipts derived from repair, maintenance, and installation services provided for a boat, an aircraft, or a qualified jet engine.

~~The~~ In lieu of purchasing under a direct pay permit pursuant to this subsection, a purchaser may elect to have the seller collect and remit the tax due on behalf of the purchaser. Where the purchaser elects for the seller to collect and remit the tax, an invoice given to the purchaser bearing the proper amount of tax on a retail transaction extinguishes the purchaser's liability for the tax on the transaction. Where a seller cannot or does not separately state installation charges that are a part of the sales price of tangible personal property or digital property for a boat, an aircraft, or a qualified jet engine on the invoice or other documentation given to the purchaser at the time of the sale, tax is due on the total purchase price.

The amount of the use tax exemption is the amount of the installation charges and sales price of or gross receipts derived from the repair, maintenance, and installation services that exceed twenty-five thousand dollars (\$25,000)."

SECTION 2.11.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(62b) The amount of repair, maintenance, and installation services for a boat, an aircraft, or a qualified jet engine for which the purchaser elects for the seller to collect and remit the tax due under G.S. 105-164.27A(a3)."

SECTION 2.12.(a) G.S. 105-164.13.(61a)m., as amended by Section 2.6 of this act, 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:

...
(61a) The sales price of or the gross receipts derived from the repair, maintenance, and installation services and service contracts listed in this subdivision are exempt from tax. Except as otherwise provided in this subdivision, property and services used to fulfill either a repair, maintenance, or installation service or a service contract exempt from tax under this subdivision are taxable. The list of repair, maintenance, and installation services and service contracts exempt from tax under this subdivision is as follows:

- ...
m. ~~A~~ Any of the following:
1. A qualified ~~aircraft~~ or a aircraft.
 2. A qualified jet engine.
 3. An aircraft with a gross take-off weight of more than 2,000 pounds."

SECTION 2.12.(b) This section becomes effective July 1, 2019, and applies to sales made on or after that date.

SECTION 2.13. Except as otherwise provided, Sections 2.1 through 2.8 of this part become effective retroactively to January 1, 2017, and apply to sales and purchases made on or after that date. Any amendments made in Sections 2.1 through 2.8 of this part that increase

sales or use tax liability are effective when this act becomes law. The remainder of this part is effective when it becomes law.

PART III. TAX COLLECTION AND ENFORCEMENT

SECTION 3.1.(a) G.S. 105-236(a) is amended by adding a new subdivision to read:

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

...
(9b) Identity Theft. – A person who knowingly obtains, possesses, or uses identifying information of another person, living or dead, with the intent to fraudulently utilize that information in a submission to the Department to obtain anything of value, benefit, or advantage for themselves or another is guilty of a Class G felony. If the person whose identifying information is obtained, possessed, or used by another in this manner suffers any adverse financial impact as a proximate result of the offense, then the person who obtained, possessed, or used the identifying information is guilty of a Class F felony. Each person's identity obtained, possessed, or used in this manner shall count as a separate offense. The term "identifying information" as used in this subdivision includes the following:

- a. Legal name.
- b. Date of birth.
- c. Social Security Number.
- d. Taxpayer Identification Number.
- e. Federal Identification Number.
- f. Bank account numbers.
- g. Federal or State tax or tax return information.

...."

SECTION 3.1.(b) This section becomes effective December 1, 2017, and applies to offenses committed on or after that date.

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

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

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

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

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

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

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

- (1) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; ~~or law.~~
- (2) Enforcement of a security interest in compliance with Article 9 of Chapter 25 of the General Statutes, the Uniform Commercial Code, other than

acceptance of collateral in full or partial satisfaction of the obligation it secures.

- (3) The payment of taxes, debts, fines, penalties, or other obligations or amounts to the State or to any political subdivision of the State."

PART IV. ADMINISTRATIVE CHANGES

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

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

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

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

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

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

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

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

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

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

- (1) For a request that is delivered in person, the date it is delivered.
- (2) For a request that is mailed, the date determined in accordance with G.S. 105-263.
- (3) For a request delivered by another method, the date the Department receives it.

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

SECTION 4.1.(c) Article 9 of Chapter 105 of the General Statutes is amended by adding the following new section to read:

"§ 105-241.13A. Taxpayer inaction.

(a) Consequence of Inaction. – Inaction by a taxpayer after timely filing a request for review shall result in the proposed denial of a refund or the proposed assessment becoming final as provided in this section. As used in this section, "inaction" means that the taxpayer made no response to the Department's initial request for additional information or to the reissuance of the request by the requested response date as provided under G.S. 105-241.13(a). A partial response, a request for additional time, or any other contact by the taxpayer with the Department does not constitute inaction under this section. The Department must send the taxpayer a notice of inaction stating that the proposed denial of a refund or the proposed assessment becomes final 10 days from the date of the notice unless the taxpayer responds to the Department. A proposed denial of a refund or a proposed assessment that becomes final is not subject to further administrative or judicial review. A taxpayer may not file another amended return or claim for refund to obtain the denied refund. Upon payment of the tax, the taxpayer may request a refund of the tax.

(b) Notice of Collection. – Before the Department collects a proposed assessment that becomes final under this section, the Department must send the taxpayer a notice of collection containing the information required under G.S. 105-241.12.

(c) Determining Timely Response. – The provisions of G.S. 105-241.11(b) apply for purposes of determining whether a taxpayer has timely responded to the Department as required under this section."

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

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

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

- (1) Grant the refund or remove the assessment.
- (2) ~~Schedule a conference with the taxpayer.~~ Adjust the amount of tax due or refund owed.
- (3) Request additional information from the taxpayer concerning the requested refund or proposed assessment. If a taxpayer makes no response to the Department's request for additional information by the requested response date, the Department must reissue the request. The Department must give a taxpayer at least 30 days to respond to a request for additional information and to respond to the reissuance of a request for additional information. If a taxpayer makes no response to the reissuance of the request for additional information by the requested response date, the refund or assessment is subject to the provisions of G.S. 105-241.13A.

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

(b) Conference. – ~~When the Department and the taxpayer agree that an action taken under subsection (a) or (a1) of this section resolves the taxpayer's objection to the Department's proposed denial of a refund or a proposed assessment, the Department does not need to take further action on the request for review. When the Department reviews a proposed denial of a refund or a proposed assessment and does not grant the refund or remove the assessment, an action taken under subsection (a) or (a1) of this section does not resolve the taxpayer's objection to the Department's proposed denial of a refund or a proposed assessment, the~~

Department must schedule a conference with the taxpayer. The Department must set the time and place for the conference, which may include a conference by telephone, and must send the taxpayer notice of the designated time and place. The Department must send the notice at least 30 days before the date of the conference or, if the Department and the taxpayer agree, within a shorter period.

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

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

- (1) The Department and the taxpayer agree on a settlement resolution.
- (2) The Department and the taxpayer agree that additional time is needed to resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment.
- (3) The Department and the taxpayer are unable to resolve the taxpayer's objection to the proposed denial of the refund or proposed assessment. If a taxpayer fails to attend a scheduled conference on the proposed denial of a refund or a proposed assessment without prior notice to the Department, the Department and the taxpayer are considered to be unable to resolve the taxpayer's objection."

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

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

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

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

"§ 105-241.22. Collection of tax.

The Department may collect a tax in the following circumstances:

- ...
- (2) When the Department sends a notice of collection after a taxpayer does not file a timely request for a Departmental review of a proposed assessment of ~~tax-tax~~ or based upon taxpayer inaction in accordance with G.S. 105-241.13A.

...."

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

"§ 105-113.4A. Licenses.

...

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

...

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

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

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

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

- (1) Fails to obtain a license in a timely manner or for all places of business as required by this Article.
- (2) Willfully fails to file a return required by this Article.
- (3) Willfully fails to pay a tax when due under this Article.
- (4) Makes a false statement in an application or return required under this Article.
- (5) Fails to keep records as required by this Article.
- (6) Refuses to allow the Secretary or a representative of the Secretary to examine the person's books, accounts, and records concerning tobacco product.

- (7) Fails to disclose the correct amount of tobacco product taxable in this State.
- (8) Fails to file a replacement bond or an additional bond if required by the Secretary under this Article.
- (9) Violates G.S. 14-401.18.

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

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

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

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

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

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

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

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

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

"§ 105-449.47. Registration-Licensure of vehicles.

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

(a1) ~~Registration-License~~ and Decal. – When the Secretary ~~registers~~licenses a motor carrier, the Secretary must issue a ~~registration~~card~~license~~ for the motor carrier and a set of decals for each qualified motor ~~vehicle~~the motor carrier registers~~vehicle~~. A motor carrier must keep records of decals issued to it and must be able to account for all decals it receives from the Secretary. ~~Registrations-Licenses~~ and decals issued by the Secretary are for a calendar year. All decals issued by the Secretary remain the property of the State. The Secretary may revoke a ~~registration~~license or a decal when a motor carrier fails to comply with this Article or Article 36C or 36D of this Subchapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Operates in this State or causes to be operated in this State a qualified motor vehicle that either fails to carry the ~~registration~~-card-license required by this Article or fails to display a decal in accordance with this Article. The amount of the penalty is one hundred dollars (\$100.00).

- (2) Is unable to account for a decal the Secretary issues the motor carrier, as required by G.S. 105-449.47. The amount of the penalty is one hundred dollars (\$100.00) for each decal for which the carrier is unable to account.
- (3) Displays a decal on a qualified motor vehicle operated by a motor carrier that was not issued to the carrier by the Secretary under G.S. 105-449.47. The amount of the penalty is one thousand dollars (\$1,000) for each decal unlawfully obtained. Both the licensed motor carrier to whom the Secretary issued the decal and the motor carrier displaying the unlawfully obtained decal are jointly and severally liable for the penalty under this subdivision.

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

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

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

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

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

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

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

...

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

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

- (1) Return the previously filed bond or letter of credit.
- (2) Notify the person liable on the previously filed bond that the person is released from liability on the bond.

...."

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

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

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

- (1) Had a license or registration issued under this Article or former Article 36 or 36A of this Chapter ~~cancelled~~ revoked by the ~~Secretary for cause.~~ Secretary.

- (1a) Had a motor fuel license or registration issued by another state ~~cancelled for cause~~revoked.

...."

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

"§ 105-449.74. Issuance of license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) A licensed distributor.
- (2) A licensed importer that removed the motor fuel on which the tax is due from a terminal of an elective or a permissive supplier.
- (3) Repealed by Session Laws 1995, c. 647, s. 32.

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

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

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

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

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

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

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

"(a) Decision. – Upon determining that an application for refund is correct, the Secretary must issue the applicant a warrant upon the State Treasurer for the amount of the refund. If the Secretary determines that an application for refund is incorrect, the Secretary must send the applicant a ~~written notice of the determination to the applicant~~. ~~The notice must advise the~~

applicant that the applicant may request a hearing on the matter in accordance with Article 9 of this Chapter proposed denial of the request for a refund. The provisions of Article 9 of this Chapter apply to the procedure for requesting a review of proposed denial of a refund sought under this Article."

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

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

The Secretary may deny an application for a license or cancel or revoke a license under this Article for the same reasons that the Secretary may deny an application for a license or cancel or revoke a license under Article 36C of this Chapter. The procedure in Article 36C for ~~cancelling~~ revoking a license applies to the ~~cancellation~~ revocation of a license under this Article."

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

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

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

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

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

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

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

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

...

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

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

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

(a) Reasons. – The Secretary of Revenue may cancel a license issued under this Article upon the written request of the ~~license holder~~ licensee. The Secretary may summarily ~~cancel~~ revoke a license issued under this Article or under Article 36C or 36D of Chapter 105 of the General Statutes when the Secretary finds that the ~~license holder~~ licensee is incurring liability for the tax imposed by this Article after failing to pay a tax when due under this Article. The Secretary may ~~cancel~~ revoke the license of a ~~license holder~~ licensee who files a false report under this Article or fails to file a report required under this Article after holding a hearing on whether the license should be ~~cancelled~~ revoked.

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

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

SECTION 4.7. G.S. 105-259(b) reads as rewritten:

"...

(45) To furnish tax information to the State Chief Information Officer pursuant to G.S. ~~143B-1381~~143B-1385. The use and reporting of individual data may be restricted to only those activities specifically allowed by law when potential fraud or other illegal activity is indicated.

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

SECTION 4.8. G.S. 143B-1325(d), as amended by S.L. 2017-57, reads as rewritten:

"(d) Report on Transition Planning. – The Community College System Office, the Department of Public Instruction, the Department of Revenue, and the State Board of Elections shall work with the State CIO to plan their transition to the Department. The information technology transfer and consolidation from the Department of Revenue to the Department may not take place until the system and data security of the Department meets the heightened security standards required by the federal government for purposes of sharing taxpayer information. By October 1, 2018, these agencies, in conjunction with the State CIO, shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on their respective transition plans."

SECTION 4.9. Section 4.1(e) of this part becomes effective retroactively to January 1, 2012, and applies to contested cases commenced on or after that date. The remainder of this part is effective when it becomes law and applies to requests for review filed on or after that date and to requests for review pending on that date for which the Department reissues a request for additional information, allows the taxpayer time to respond by the requested response date, and provides notification to the taxpayer that failure to timely respond to the request will result in the request for review being subject to the provisions of G.S. 105-241.13A.

PART V. PROPERTY TAX

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

"(a1) Unregistered Vehicles. – The owner of an unregistered classified motor vehicle must list the vehicle for taxes by filing an abstract with the assessor of the county in which the vehicle is located on or before January 31 following the date the owner acquired the unregistered vehicle or, in the case of a registration that is not renewed, January 31 following the date the registration expires, and on or before January 31 of each succeeding year that the vehicle is unregistered. If a classified motor vehicle required to be listed pursuant to this

subsection is registered before the end of the fiscal year for which it was required to be listed, the following applies:

- ...
- (2) For any months for which the vehicle was not taxed between the date the registration expired and the start of the current registered vehicle tax year, the vehicle is taxed as an unregistered vehicle as follows:
- a. The value of the motor vehicle is determined as of January 1 of the year in which ~~the registration of the motor vehicle expires.~~ the taxes are computed.
- ...
- d. The taxes are due on ~~the first day of the second month~~ September 1 following the ~~month~~ date the notice was prepared. Taxes are payable at par or face amount if paid before January 6 following the due date. Taxes paid on or after January 6 following the due date are subject to interest charges. Interest accrues on taxes paid on or after January 6 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).~~

...."

SECTION 5.4.(a) G.S. 105-275 is amended by adding a new subdivision to read:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

...

- (49) A mobile classroom or modular unit that is occupied by a school and is wholly and exclusively used for educational purposes, as defined in G.S. 105-278.4(f), regardless of the ownership of the property. For the purposes of this subdivision, the term "school" means a public school, including any school operated by a local board of education in a local school administrative unit; a nonprofit charter school; a regional school; a nonprofit nonpublic school regulated under Article 39 of Chapter 115C of the General Statutes; or a community college established under Article 2 of Chapter 115D of the General Statutes."

SECTION 5.4.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2018.

PART VI. OTHER CHANGES

SECTION 6.1.(a) G.S. 159-32 reads as rewritten:

"§ 159-32. Daily deposits.

Except as otherwise provided by law, all taxes and other moneys collected or received by an officer or employee of a local government or public authority shall be deposited in accordance with this section. Each officer and employee of a local government or public authority whose duty it is to collect or receive any taxes or other moneys ~~shall~~ shall, on a daily basis, deposit his or submit to a properly licensed and recognized cash collection service all collections and receipts daily. If receipts. However, if the governing board gives its approval, deposits or submissions to a properly licensed and recognized cash collection service shall be required only when the moneys on hand amount to as much as two hundred fifty dollars (\$250.00), but in any event a deposit shall be made on the last business day of the month. five hundred dollars (\$500.00) or greater. Until deposited or officially submitted to a properly licensed and recognized cash collection service, all moneys must be maintained in a secure location. All deposits shall be made with the finance officer or in an official depository. Deposits in an official depository shall be immediately reported to the finance officer by means of a duplicate deposit ticket. The finance officer may at any time audit the accounts of any officer or employee collecting or receiving taxes or other moneys, and may prescribe the form and detail of these accounts. The accounts of such an officer or employee shall be audited at least annually."

SECTION 6.1.(b) This section becomes effective October 1, 2017.

SECTION 6.2.(a) Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-269.8. Contribution by individual for early detection of breast and cervical cancer.

(a) Contribution. – An individual entitled to a refund of income taxes under Part 2 of Article 4 of this Chapter may elect to contribute all or part of the refund to be used for early detection of breast and cervical cancer at the Cancer Prevention and Control Branch of the Division of Public Health of the Department of Health and Human Services. The Secretary shall provide appropriate language and space on the individual income tax form in which to make the election. The Secretary shall include in the income tax instructions an explanation that the contributions will be used for early detection of breast and cervical cancer only. The election becomes irrevocable upon filing the individual's income tax return for the taxable year.

(b) Distribution. – The Secretary shall transmit the contributions made pursuant to this section to the State Treasurer to be distributed for early detection of breast and cervical cancer. The State Treasurer shall distribute the contributions to the Cancer Prevention and Control Branch of the Division of Public Health of the Department of Health and Human Services. Funds distributed pursuant to this section shall be used only for early detection of breast and cervical cancer and shall be used in accordance with North Carolina's Breast and Cervical Cancer Control Program's policies and procedures.

(c) Sunset. – This section expires for taxable years beginning on or after January 1, 2021."

SECTION 6.2.(b) The General Assembly finds that the funds generated by this section are intended to be additional funding for early detection of breast and cervical cancer and are not intended to replace current appropriations for early detection of breast and cervical cancer.

SECTION 6.2.(c) This section is effective for taxable years beginning on or after January 1, 2017.

SECTION 6.3.(a) G.S. 105-449.81, as amended by S.L. 2017-39, reads as rewritten:

"§ 105-449.81. Excise tax on motor fuel.

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

...

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

- a. Is produced in this State and is removed from the storage facility at the production location.
- b. Is imported to this State by means of a transport truck, a railroad tank car, a tank wagon, or a marine vessel ~~vessel~~ where ethanol or biodiesel from the vessel is not delivered to a terminal that has been assigned a terminal control number by the Internal Revenue Service.
- c. Repealed by Session Laws 2009-445, s. 34(a), effective January 1, 2010.

...."

SECTION 6.3.(b) The Department of Revenue is directed to notify taxpayers impacted by this section within 15 days of the legislation being enacted into law that motor fuel tax is not due at the time of importation when that fuel is delivered to a terminal that has been assigned a terminal control number by the Internal Revenue Service.

PART VII. SEVERABILITY AND EFFECTIVE DATE

SECTION 7.1. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect

without the invalid provisions or application, and, to this end, the provisions of this act are severable.

SECTION 7.2 Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of August, 2017.

s/ Bill Rabon
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 2:21 p.m. this 11th day of August, 2017