

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1586

Short Title: Pay Taxes Faster.

(Public)

Sponsors: Senators Royall and Rauch.

Referred to: Finance.

June 6, 1990

A BILL TO BE ENTITLED

AN ACT TO ACCELERATE THE PAYMENT OF SALES TAXES AND GROSS RECEIPTS TAXES BY UTILITIES AND TO ACCELERATE THE PAYMENT OF WITHHELD INDIVIDUAL INCOME TAXES BY EMPLOYERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.16 reads as rewritten:

"§ 105-164.16. Report and payment of taxes.

(a) Payment. – Taxes levied under this Article are due when a return is required to be filed. Every taxpayer liable for the tax imposed by this Article shall, within the specified time after the end of the appropriate reporting period, submit a return to the Secretary, on a form prescribed by the Secretary, stating the taxpayer's gross sales for the reporting period, the amount and type of sales made in the period that are exempt from tax under G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any other information required by the Secretary. Each return shall be accompanied by a payment to the Secretary for the amount of taxes shown to be due on the return and shall be signed by the taxpayer or his agent. Returns that do not contain the required information shall not be accepted. When an unacceptable return is submitted, the Secretary shall require a corrected return to be filed.

(b) General Reporting Periods. – Returns of taxpayers who are required by this subsection to report on a monthly or quarterly basis are due within 15 days after the end of each monthly or quarterly period. Returns of taxpayers who are required to report on a semimonthly basis are due within 10 days after the end of each semimonthly period.

A taxpayer who is consistently liable for less than twenty-five dollars (\$25.00) a month in State and local sales and use taxes may, with the approval of the Secretary, file

1 a return on a quarterly basis. A taxpayer who is consistently liable for at least twenty  
2 thousand dollars (\$20,000) a month in State and local sales and use taxes shall, when  
3 directed to do so by the Secretary, file a return on a semimonthly basis. All other  
4 taxpayers shall file a return on a monthly basis. Quarterly reporting periods end on the  
5 last day of March, June, September, and December; monthly reporting periods end on  
6 the last day of the month; and semimonthly reporting periods end on the 15th of each  
7 month and the last day of each month.

8 The Secretary shall monitor the amount of tax remitted by a taxpayer and shall direct  
9 a taxpayer who consistently remits at least twenty thousand dollars (\$20,000) each  
10 month to file a return on a semimonthly basis. In determining the amount of tax due  
11 from a taxpayer for a reporting period the Secretary shall consider the total amount due  
12 from all places of business owned or operated by the same person as the amount due  
13 from that person.

14 A taxpayer who is directed to remit sales and use taxes on a semimonthly basis but  
15 who is unable to gather the information required to submit a complete return for either  
16 the first reporting period or both the first and second semimonthly reporting periods  
17 may, upon written authorization by the Secretary, file an estimated return for that first  
18 reporting period or both periods on the basis prescribed by the Secretary. Once a  
19 taxpayer is authorized to file an estimated return for the first period or both periods, the  
20 taxpayer may continue to file an estimated return for the first or both periods until the  
21 Secretary, by written notification, revokes the taxpayer's authorization to do so. When  
22 filing a return for the second semimonthly reporting period, a taxpayer who files an  
23 estimated return for the first period but not both periods shall remit the amount of tax  
24 due for both the first and second reporting periods, less the amount he remitted with his  
25 estimated return.

26 A taxpayer who files an estimated return for both periods is considered to have been  
27 granted an extension for both the first and second reporting periods. Notwithstanding  
28 G.S. 105-164.19, if a taxpayer who files an estimated return for both periods files a  
29 reconciling return for those periods within ten days of the due date of the return for the  
30 second period and any underpayment of estimated taxes remitted with the reconciling  
31 return is less than ten percent (10%) of the amount of taxes due for both the first and  
32 second reporting periods, no interest shall be charged. Otherwise, a taxpayer who files  
33 an estimated return for both periods shall be charged interest at the statutory rate from  
34 the due date of the return for the first reporting period to the date the reconciling return  
35 is filed.

36 (c) Sales Tax on Utility Services. – Taxes levied under G.S. 105-164.4(4a) and  
37 G.S. 105-164.4(4c) are due and payable ~~quarterly~~ monthly on or before the ~~30th~~ 25th day  
38 following the end of the ~~calendar quarter~~ month in which the tax accrues."

39 Sec. 2. G.S. 105-164.21A reads as rewritten:

40 "**§ 105-164.21A. Deduction for municipalities that sell electric power.**

41 A municipality that pays the retail sales tax imposed by this Article on electricity  
42 may deduct from the amount of tax payable by the municipality an amount equal to  
43 three percent (3%) of the difference between its gross receipts from sales of electricity

1 for the preceding ~~quarter reporting period~~ and the amount paid by the municipality for  
2 purchased power and related services during that ~~quarter reporting period.~~"

3 Sec. 3. G.S. 105-116 reads as rewritten:

4 "**§ 105-116. Franchise or privilege tax on electric light, power, gas, water, sewerage,**  
5 **and other similar public service companies not otherwise taxed. power,**  
6 **natural gas, water, and sewerage companies.**

7 (a) Every person, firm or corporation, domestic or foreign, other than municipal  
8 corporations, engaged in the business of furnishing electricity, electric lights, current,  
9 power or piped gas, or owning and/or operating a water system subject to regulation by  
10 the North Carolina Utilities Commission, or owning and/or operating a public sewerage  
11 system shall, within 30 days after the first day of January, April, July and October of  
12 each year, make and deliver to the Secretary of Revenue, upon such forms and blanks as  
13 required by him, a report verified by the affirmation of the officer or authorized agent  
14 making such report and statement, containing the following information:

- 15 (1) The total gross receipts for the three months ending the last day of the  
16 month immediately preceding such return from such business within  
17 and without this State.
- 18 (2) The total gross receipts for the same period from such business within  
19 this State.
- 20 (3) The total gross receipts from the commodities or services described in  
21 this section sold to a vendee subject to the tax levied by this section or  
22 to a joint agency established under Chapter 159B of the General  
23 Statutes or a municipality having an ownership share in a project  
24 established under that Chapter.
- 25 (4) The total amount and price paid for such commodities or services  
26 purchased from others engaged in the above named business in this  
27 State, and the name or names of the vendor.
- 28 (5) As to gas companies, the gross receipts derived from sales of piped gas  
29 to manufacturers which is to be used as an ingredient or component of  
30 a manufactured product.

31 Gross receipts shall be reported on an accrual basis.

32 (b) From the total gross receipts within this State there shall be deducted the  
33 gross receipts reported in subsection (a)(3) of this section.

34 (c) An annual franchise or privilege tax at the rates specified in this subsection is  
35 levied on the businesses listed in subsection (a). This tax is for the privilege of  
36 engaging in business in this State and is due and payable quarterly to the Secretary of  
37 Revenue when the report required by subsection (a) is filed. The tax on a public  
38 sewerage company is at the rate of six percent (6%) of the total gross receipts of the  
39 company derived within the State. The tax on an electric power company or a gas  
40 company is at the rate of three and twenty two hundredths percent (3.22%) of the total  
41 gross receipts derived within the State. The tax on water companies is at the rate of four  
42 percent (4%) of the total gross receipts derived within the State. All deductions allowed  
43 by this section shall first be subtracted from total gross receipts to determine the total  
44 taxable gross receipts.

~~1 The tax imposed by this section does not apply to special charges collected within  
2 this State by natural gas utilities pursuant to drilling and exploration surcharges  
3 approved by the Utilities Commission, where such surcharges are segregated from the  
4 other receipts of the natural gas utility and are devoted to drilling, exploration and other  
5 means to acquire additional supplies of natural gas for the account of natural gas  
6 customers in North Carolina and where the beneficial interest in said surcharge  
7 collections is preserved for the natural gas customers paying said surcharges under rules  
8 established by the Utilities Commission.~~

~~9 In determining the total tax payable by any company under this section, there shall  
10 be allowed as a credit on such tax the amount of the credit authorized by Division V of  
11 Article 4 of this Chapter.~~

~~12 (d) Repealed by Session Laws 1973, c. 1287, s. 3.~~

~~13 (e) The report herein required of gross receipts within and without the State, shall  
14 include the total gross receipts for the period stated of all properties owned and operated  
15 by the reporting person, firm, or corporation on the first day of each calendar quarter  
16 year, whether operated by it for the previous annual period, or whether intermediately  
17 acquired by purchase or lease, it being the intent and purpose of this section to measure  
18 the amount of privilege or franchise tax in each calendar quarter year with reference to  
19 the gross receipts of the property operated for the previous calendar quarter year and to  
20 fix liability for the payment of the tax on the owner, operator, or lessor on the first day  
21 of January, April, July and October of each year.~~

~~22 (f) Companies taxed under this section shall not be required to pay the franchise  
23 tax imposed by G.S. 105-122 or G.S. 105-123 unless the tax levied by G.S. 105-122 or  
24 G.S. 105-123 exceeds the tax levied in this section, and no county shall impose a  
25 franchise, license or privilege tax upon the business taxed under this section.~~

~~26 (g) The Secretary of Revenue shall determine the total gross receipts derived  
27 from the sale within each municipality of the commodities or services described in this  
28 section, except water and sewerage services, and shall distribute to each municipality an  
29 amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts  
30 from sales within the municipality. In determining the amount to be distributed to a  
31 municipality pursuant to this subsection, gross receipts from sales within a municipality  
32 do not include receipts from sales of piped gas to a manufacturer for use as an  
33 ingredient or component part of a manufactured product.~~

~~34 As soon as practicable after the date on which each quarterly payment of taxes is due  
35 under this section, the Secretary of Revenue shall certify to the State Disbursing Officer  
36 and to the State Treasurer the amount distributable to each municipality under this  
37 section. The State Disbursing Officer shall thereupon issue a warrant on the State  
38 Treasurer to each municipality in the amount so certified.~~

~~39 So long as there is a distribution to municipalities of the amount herein provided  
40 from the tax imposed by this section, no municipality shall impose or collect any greater  
41 franchise, privilege or license taxes, in the aggregate, on the businesses taxed under this  
42 section, than was imposed and collected on or before January 1, 1947. If any  
43 municipality shall have collected any privilege, license or franchise tax between January  
44 1, 1947, and April 1, 1949, in excess of the tax collected by it prior to January 1, 1947,~~

1 then upon distribution of the taxes imposed by this section to municipalities, the amount  
2 distributable to any municipality shall be credited with such excess payment.

3 (h) For purposes of subsection (g) and of G.S. 105-120(d), the term  
4 "municipality" includes any urban service district defined by the governing board of a  
5 consolidated city-county, and the amounts due thereby shall be distributed to the  
6 government of the consolidated city-county.

7 (a) Tax. An annual franchise or privilege tax is imposed on a person, firm, or  
8 corporation, other than a municipal corporation, that is:

9 (1) An electric power company engaged in the business of furnishing  
10 electricity, electric lights, current, or power.

11 (2) A natural gas company engaged in the business of furnishing piped  
12 natural gas.

13 (3) A water company engaged in owning or operating a water system  
14 subject to regulation by the North Carolina Utilities Commission.

15 (4) A public sewerage company engaged in owning or operating a public  
16 sewerage system.

17 The tax on an electric power company is three and twenty-two hundredths percent  
18 (3.22%) of the company's taxable gross receipts from the business of furnishing  
19 electricity, electric lights, current, or power. The tax on a natural gas company is three  
20 and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts  
21 from the business of furnishing piped natural gas. The tax on a water company is four  
22 percent (4%) of the company's taxable gross receipts from owning or operating a water  
23 system subject to regulation by the North Carolina Utilities Commission. The tax on a  
24 public sewerage company is six percent (6%) of the company's taxable gross receipts  
25 from owning or operating a public sewerage company. A company's taxable gross  
26 receipts are its gross receipts from business inside the State less the amount of gross  
27 receipts from sales reported under subdivision (b)(2). A company that engages in more  
28 than one business taxed under this section shall pay tax on each business. A company is  
29 allowed a credit against the tax imposed by this section for the company's investments  
30 in certain entities in accordance with Division V of Article 4 of this Chapter.

31 (b) Payment. The tax imposed by this section is payable when a report is  
32 required to be filed. An electric power company or a natural gas company shall file a  
33 report on a monthly basis. A water company or a public sewerage company shall file a  
34 report on a quarterly basis. A monthly report covers a calendar month and is due within  
35 25 days after the end of the month covered by the report. A quarterly report covers a  
36 calendar quarter and is due within 25 days after the end of the quarter covered by the  
37 report. A company shall submit a report on a form provided by the Secretary. The  
38 report shall include the company's gross receipts from all property it owned or operated  
39 during the reporting period in connection with its business taxed under this section and  
40 shall contain the following information:

41 (1) The company's gross receipts for the reporting period from business  
42 inside and outside this State, stated separately.

43 (2) The company's gross receipts from commodities or services described  
44 in subsection (a) that are sold to a vendee subject to the tax levied by

1 this section or to a joint agency established under G.S. Chapter 159B  
2 or a municipality having an ownership share in a project established  
3 under that Chapter.

4 (3) The amount of and price paid by the company for commodities or  
5 services described in subsection (a) that are purchased from others  
6 engaged in business in this State and the name of each vendor.

7 (4) For an electric company or a natural gas company, the company's  
8 gross receipts from the sale within each municipality of the  
9 commodities and services described in subsection (a).

10 A company shall report its gross receipts on an accrual basis.

11 (c) Gas Surcharges. Gross receipts of a natural gas company do not include  
12 special charges collected within this State by the company pursuant to drilling and  
13 exploration surcharges approved by the North Carolina Utilities Commission, if the  
14 surcharges are segregated from the other receipts of the company and are devoted to  
15 drilling, exploration, and other means to acquire additional supplies of natural gas for  
16 the account of natural gas customers in North Carolina and the beneficial interest in the  
17 surcharge collections is preserved for the natural gas customers paying the surcharges  
18 under rules established by the Commission.

19 (d) Distribution. Each municipality shall receive three and nine hundredths  
20 percent (3.09%) of the taxable gross receipts derived by an electric company and a  
21 natural gas company from sales within the municipality of the commodities and services  
22 described in subsection (a). At the end of each calendar quarter, the Secretary of  
23 Revenue shall calculate the amount to be distributed to each municipality based on the  
24 taxable gross receipts derived within the municipality during that quarter and shall  
25 certify the amount to the State Controller. The Secretary shall then distribute the  
26 amounts to the municipalities. If a company's report does not state the company's  
27 taxable gross receipts derived within a municipality, the Secretary of Revenue shall  
28 determine a practical method of allocating part of the company's taxable gross receipts  
29 to the municipality.

30 As used in this subsection, the term 'municipality' includes an urban service district  
31 defined by the governing board of a consolidated city-county. The amount due an urban  
32 service district shall be distributed to the governing board of the consolidated city-  
33 county.

34 (e) No Local Tax. Counties and cities may not impose a license, franchise, or  
35 privilege tax on a company taxed under this section."

36 Sec. 4. G.S. 105-120 reads as rewritten:

37 **"§ 105-120. Franchise or privilege tax on telephone companies.**

38 (a) Tax. An annual franchise or privilege tax is imposed on a ~~Every~~ person, firm,  
39 or corporation, ~~domestic or foreign, owning and/or operating that owns or operates~~  
40 a business entity for the provision of local telecommunications service. The tax is three  
41 and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts. A  
42 company's taxable gross receipts are its receipts from providing local  
43 telecommunications service, including receipts from rentals and other similar charges,  
44 less its receipts from telecommunications access charges. A company is allowed a

1 credit against the tax imposed by this section for the company's investments in certain  
2 entities in accordance with Division V of Article 4 of this Chapter. ~~service, shall within~~  
3 30 days after the first day of January, April, July and October of each year, make and deliver to  
4 the Secretary of Revenue a quarterly return, verified by the affirmation of the officer or  
5 authorized agent making such return, showing the total amount of gross receipts of such  
6 business entity for the three months ending the last day of the month immediately preceding  
7 such return, and pay, at the time of making such return, the franchise, license or privilege tax  
8 herein imposed. Gross receipts shall be reported on an accrual basis.

9 (b) Payment. The tax imposed by this section is payable when a report is  
10 required to be filed. A company that is liable for an average of less than three thousand  
11 dollars (\$3,000) a month in taxes imposed by this section may, with the approval of the  
12 Secretary of Revenue, file a report on a quarterly basis. All other companies shall file a  
13 report on a monthly basis. A monthly report covers a calendar month and is due within  
14 25 days after the end of the month covered by the report. A quarterly report covers a  
15 calendar quarter and is due within 25 days after the end of the quarter covered by the  
16 report. A company shall submit a report on a form provided by the Secretary. The  
17 report shall state the company's gross receipts for the reporting period from providing  
18 local telecommunications service and from providing local telecommunications service  
19 within each municipality served. A company shall report its gross receipts on an  
20 accrual basis.

21 (c) Distribution. Each municipality shall receive three and nine hundredths  
22 percent (3.09%) of the taxable gross receipts derived from local telecommunications  
23 service provided within the municipality. At the end of each calendar quarter, the  
24 Secretary of Revenue shall calculate the amount to be distributed to each municipality  
25 based on the taxable gross receipts derived within the municipality during that quarter  
26 and shall certify the amount to the State Controller. The Secretary shall then distribute  
27 the amounts to the municipalities. If a company's report does not state the company's  
28 taxable gross receipts from local telecommunications service provided within a  
29 municipality, the Secretary of Revenue shall determine a practical method of allocating  
30 part of the company's taxable gross receipts to the municipality.

31 As used in this subsection, the term 'municipality' includes an urban service district  
32 defined by the governing board of a consolidated city-county. The amount due an urban  
33 service district shall be distributed to the governing board of the consolidated city-  
34 county.

35 (d) No Local Tax. Counties and cities may not impose a license, franchise, or  
36 privilege tax on a company taxed under this section or under G.S. 105-164.4(4c).

37 (e) Definitions. For purposes of this section:

- 38 (1) 'Local telecommunications service' means telecommunications service  
39 provided wholly within a LATA entitling the user to access to a local  
40 telephone exchange for the privilege of telephonic quality  
41 communication with substantially all persons in the local telephone  
42 exchange. Provided, however, local telecommunications service does  
43 not include intraLATA or interLATA toll telecommunications ~~services,~~  
44 service, or private telecommunications ~~services;~~ service.

- 1 (2) 'LATA' is a Local Access and Transport Area representing a  
2 geographical area comprising one or more telephone exchange ~~areas;~~  
3 areas.
- 4 (3) 'InterLATA telecommunications' is telecommunications service  
5 provided between two or more ~~LATAs;~~ LATAs.
- 6 (4) 'Toll telecommunications service' means:  
7 a. A telephonic quality communication for which:  
8 1. There is a toll charge ~~which that~~ varies in amount with  
9 the distance and elapsed transmission time of each  
10 individual communication; and  
11 2. The charge is paid within the United ~~States;~~ and States.  
12 b. A service ~~which that~~ entitles the subscriber, upon payment of a  
13 periodic charge (determined as a flat amount or upon the basis  
14 of total elapsed transmission time), to the privilege of an  
15 unlimited number of telephonic communications to or from all  
16 or a substantial portion of the persons having telephone or  
17 radiotelephone stations in a specified area ~~which that~~ is outside  
18 the local telephone ~~exchange;~~ exchange.
- 19 (5) 'Private telecommunications service' means a service furnished to a  
20 subscriber that entitles the subscriber to exclusive or priority use of a  
21 communications channel or group of channels.
- 22 (6) 'Telecommunications access charges' means charges paid to a provider  
23 of local telecommunications service for access to an interconnection  
24 with the local telephone exchange.
- 25 ~~(b) An annual franchise or privilege tax of three and twenty two hundredths~~  
26 ~~percent (3.22%), payable quarterly, on the gross receipts of such business entity, is~~  
27 ~~herein imposed for the privilege of engaging in such business within this State.~~  
28 ~~Provided, however, gross receipts from local telephone service shall not include~~  
29 ~~telecommunications access charges. Such gross receipts shall include all rentals and~~  
30 ~~other similar charges. Telecommunications access charges are those charges paid to a~~  
31 ~~provider of local telephone service for access to an interconnection with the local~~  
32 ~~telephone exchange.~~
- 33 ~~(c) Repealed by Session Laws 1973, c. 1287, s. 3.~~
- 34 ~~(d) The Secretary of Revenue shall ascertain the total gross receipts derived from~~  
35 ~~local business conducted within each municipality in this State by persons, firms or~~  
36 ~~corporations taxed under this section, and out of the tax levied by this section, an~~  
37 ~~amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts~~  
38 ~~from local business conducted within any municipality shall be distributed to such~~  
39 ~~municipality. When a person, firm or corporation taxed under this section properly~~  
40 ~~receives a credit on said taxes under the proviso in subsection (b) because of payments~~  
41 ~~made to a municipality, such municipality's distributive share of the taxes levied by this~~  
42 ~~section shall be reduced by the amount of the credit properly received by said person,~~  
43 ~~firm or corporation. If the credit received under the proviso is greater than the~~



1 municipality's distributive share of the taxes levied under this section, no distribution to  
2 such municipality shall be made.

3 As soon as practicable after the date on which each quarterly payment of taxes is due  
4 under this section, the Secretary of Revenue shall certify to the State Disbursing Officer  
5 and to the State Treasurer the amount distributable to each municipality under this  
6 section. The State Disbursing Officer shall thereupon issue a warrant on the State  
7 Treasurer to each municipality in the amount so certified.

8 In determining what constitutes local business conducted within a municipality for  
9 the purposes of this subsection, all business originating within a municipality, except  
10 long distance calls, shall be construed as local business.

11 The Department of Revenue is hereby authorized and empowered to require any and  
12 all persons, firms or corporations taxed under this section to file additional reports  
13 disclosing the gross receipts derived from local business as herein defined and the gross  
14 receipts from long distance business.

15 If the records of the corporation taxed under this section do not readily disclose  
16 allocation to municipalities of revenues from local business as above defined, the  
17 Secretary of Revenue shall prescribe some practicable method of allocating such local  
18 revenues.

19 (e) Nothing in this section shall be construed to authorize the imposition of any  
20 tax upon interstate commerce.

21 (f) Counties, cities and towns shall not levy any franchise, license, or privilege  
22 tax on the business taxed under this section or under G.S. 105-164.4(4e)."

23 Sec. 5. G.S. 105-163.1 reads as rewritten:

24 **"§ 105-163.1. Definitions.**

25 ~~As used in this Article, The following definitions apply in this Article:~~

- 26 (1) ~~" Secretary" means the Secretary of Revenue. 'Code.'-The Internal~~  
27 ~~Revenue Code as enacted as of January 1, 1990, including any~~  
28 ~~provisions enacted as of that date which become effective either before~~  
29 ~~or after that date.~~  
30 (2) ~~" Corporation" includes an association or a joint stock company.~~  
31 (3) ~~" Dependent" means a dependent 'Dependent.'- An individual with~~  
32 ~~respect to whom an income tax exemption is allowed under the Code.~~  
33 (4) ~~The word "employee" means an 'Employee.'- An individual, whether a~~  
34 ~~resident or a nonresident in of this State, who performs or performed~~  
35 ~~any service-services in this State for wages or an individual domiciled in~~  
36 ~~who is a resident of this State who-and performs or performed any~~  
37 ~~service-services outside this State for wages. The word "employee," as~~  
38 ~~used in this subdivision, is intended to include officers of corporations and~~  
39 ~~elected public officials. The term does not include an ordained or licensed~~  
40 ~~clergyman who elects to be considered self-employed under G.S. 105-~~  
41 ~~163.1A. term includes an ordained or licensed clergyman who elects to~~  
42 ~~be considered an employee under G.S. 105-163.1A, an officer of a~~  
43 ~~corporation, and an elected public official.~~

- 1           (5)    ~~The word "employer" means this State, or any political subdivision~~  
2           ~~thereof, the United States, or any agency or instrumentality of any one~~  
3           ~~or more of the foregoing, or a person, 'Employer.'- A person for~~  
4           ~~whom an individual performs or performed any service as an~~  
5           ~~employee; except that:~~  
6           a.     ~~If the person, governmental unit, or agency thereof, for whom~~  
7           ~~the individual performs or performed the service does not have~~  
8           ~~control of the payment of the wages for such services, the term~~  
9           ~~"employer" (except for the purposes of subdivision (6) of this~~  
10          ~~section) means the person having control of the payment of~~  
11          ~~such wages; and~~  
12          b.     ~~In the case of a person paying wages on behalf of a nonresident~~  
13          ~~person not engaged in trade or business within this State or on~~  
14          ~~behalf of any governmental unit or agency thereof not located~~  
15          ~~within this State, the term "employer" (except for purposes of~~  
16          ~~subdivision (6) of this section) means such person. services for~~  
17          ~~wages. In applying the requirements to withhold income taxes~~  
18          ~~from wages and pay the withheld taxes, the term includes a~~  
19          ~~person who:~~  
20          a.     ~~Controls the payment of wages to an individual for services~~  
21          ~~performed for another.~~  
22          b.     ~~Pays wages on behalf of a person who is not engaged in trade or~~  
23          ~~business in this State.~~  
24          c.     ~~Pays wages on behalf of a unit of government that is not located~~  
25          ~~in this State.~~  
26          d.     ~~Pays wages for any other reason.~~  
27          (6)- ~~The term "wages" means all remuneration (other than fees paid to a~~  
28          ~~public official) for service performed by an employee for his~~  
29          ~~employer, including the cash value of all remuneration paid in any~~  
30          ~~medium other than cash; except that such term shall not include~~  
31          ~~remuneration paid:~~  
32          a.     ~~For agricultural labor where such remuneration is paid to~~  
33          ~~workers employed on the farm for services rendered on the~~  
34          ~~farm in the production, harvesting, and transportation of~~  
35          ~~agricultural products to market for the farmer employer; or~~  
36          b.     ~~For domestic service in a private home, local college club, or~~  
37          ~~local chapter of a college fraternity or sorority; or~~  
38          c.     ~~For service not in the course of the employer's trade or business~~  
39          ~~performed in any calendar quarter by an employee, unless the~~  
40          ~~cash remuneration paid for such service is fifty dollars (\$50.00)~~  
41          ~~or more and such service is performed by an individual who is~~  
42          ~~regularly employed by such employer to perform such service.~~  
43          ~~For purposes of this paragraph, an individual shall be deemed to~~

- 1 be regularly employed by an employer during a calendar quarter  
 2 only if:
- 3 1. ~~On each of some 24 days during such quarter such~~  
 4 ~~individual performs for such employer for some portion~~  
 5 ~~of the day service not in the course of the employer's~~  
 6 ~~trade or business; or~~
  - 7 2. ~~Such individual was regularly employed (as determined~~  
 8 ~~under subparagraph 1 above) by such employer in the~~  
 9 ~~performance of such service during the preceding~~  
 10 ~~calendar quarter; or~~
- 11 d. ~~For services not in the course of the employer's trade or~~  
 12 ~~business, to the extent paid in any medium other than cash; or~~
- 13 e. ~~To, or on behalf of, an employee or his beneficiary—~~
- 14 1. ~~From or to a trust described in § 401(a) of the Code~~  
 15 ~~which is exempt from tax under § 501(a) of the Code at~~  
 16 ~~the time of such payment unless such payment is made~~  
 17 ~~to an employee of the trust as remuneration for services~~  
 18 ~~rendered as such employee and not as a beneficiary of~~  
 19 ~~the trust; or~~
  - 20 2. ~~Under or to an annuity plan which, at the time of such~~  
 21 ~~payment, meets the requirements of § 401(a) (3), (4), (5),~~  
 22 ~~and (6) of the Code.~~
- 23 (7) ~~The term "transient employer" means an "employer" who is not a~~  
 24 ~~resident of this State and who temporarily engages in any activity~~  
 25 ~~within the State for the production of income. Without intending to~~  
 26 ~~exclude others who may come within the foregoing definition, any~~  
 27 ~~nonresident "employer" engaging in any such activity within the State~~  
 28 ~~which, as of any date, cannot be reasonably expected to continue for a~~  
 29 ~~period of 18 consecutive months shall be deemed to be temporarily~~  
 30 ~~engaged in such activity.~~
- 31 (8) ~~"Fiduciary" means a 'Fiduciary.'— A guardian, a trustee, an executor, an~~  
 32 ~~administrator, a receiver, a conservator, or any other person acting in~~  
 33 ~~any a fiduciary capacity for any person, estate or trust. another.~~
- 34 (9) ~~"Fiscal year" means an accounting period of 12 months ending on the~~  
 35 ~~last day of any month other than December. 'Fiscal year.'— Defined in~~  
 36 ~~section 441(e) of the Code.~~
- 37 (10) ~~"Individual" means a 'Individual.'— A natural person.~~
- 38 (11) ~~"Code" means the Internal Revenue Code as enacted as of January 1,~~  
 39 ~~1989, and includes any provisions enacted as of that date which~~  
 40 ~~become effective either before or after that date. 'Miscellaneous~~  
 41 ~~payroll period.'— A payroll period other than a daily, weekly,~~  
 42 ~~biweekly, semimonthly, monthly, quarterly, semiannual, or annual~~  
 43 ~~payroll period.~~

- 1 (12) "~~Payroll period~~" means a 'Payroll period.'— A period for which a  
2 payment of wages is ordinarily made to the employee by his employer,  
3 and the term "~~miscellaneous payroll period~~" means a payroll period  
4 other than a daily, weekly, biweekly, semimonthly, monthly, quarterly,  
5 semiannual, or annual payroll period. an employer ordinarily pays  
6 wages to an employee of the employer.
- 7 (13) The word "~~person~~" means an 'Person.'— An individual, a fiduciary, a  
8 partnership, or a corporation and includes an officer or employee of a  
9 corporation or a member or employee of a partnership or of an  
10 individual proprietorship who as such officer, employee, or member is  
11 under a duty to perform an act in meeting the requirements of this  
12 Division. a corporation, or a unit of government. The term includes an  
13 officer or employee of a corporation, a member or employee of a  
14 partnership, and an employee of an individual proprietorship who, as  
15 officer, employee, or member, is under a duty to perform an act in  
16 meeting the requirements of this Division.
- 17 (14) "~~Taxable year~~" means the calendar year or fiscal year ending during  
18 such calendar year, upon the basis of which net income is computed,  
19 and in the case of a return made for a fractional part of a year under the  
20 provisions of this Chapter or under regulations prescribed by the  
21 Secretary, "~~taxable year~~" means the period for which such return is  
22 made. 'Taxable year.'— Defined in section 441(b) of the Code.
- 23 (14a) 'Secretary.'— The Secretary of Revenue.
- 24 (15) The term "~~net taxable income~~" means that part of the income of an  
25 individual which, during the taxable year of the individual, is subject  
26 to payment of an income tax thereon under the provisions of Article 4  
27 of this Chapter. 'Wages.'— The term has the same meaning as in  
28 section 3401 of the Code except it does not include remuneration paid  
29 by a farmer for services performed on the farmer's farm in producing  
30 or harvesting agricultural products or in transporting the agricultural  
31 products to market."

32 Sec. 6. G.S. 105-163.1A reads as rewritten:

33 "§ 105-163.1A. Ordained or licensed clergyman may elect to be considered ~~self~~. **An**  
34 **ordained or licensed clergyman who performs services for a church of**  
35 **any religious denomination may file an election with the Secretary and**  
36 **the church he serves to be considered self-employed instead of an employee**  
37 **of the church. church instead of self-employed. Wages-Until a clergyman**  
38 **files an election, amounts paid by a church to a clergyman who elects to be**  
39 **considered self-employed are not subject to withholding. A church shall**  
40 **withhold taxes from a clergyman's wages until-after the clergyman files**  
41 **an election with it under this section."**

42 Sec. 7. G.S. 105-163.2(a) reads as rewritten:

1       "(a) Every employer making payment of wages on or after January 1, 1960, shall  
2 deduct and withhold with respect to the wages of each employee for each payroll period  
3 an amount determined as follows:

4       An amount which, if an equal amount was collected for each similar payroll period  
5 with respect to a similar amount of wages for each payroll period during an entire  
6 calendar year, would aggregate or approximate the income tax liability of the employee  
7 under Article 4 of this Chapter after making allowance for the personal exemptions to  
8 which the employee would be entitled on the basis of his status during the payroll  
9 period and after making allowance for withholding purposes for a deduction from wages  
10 of the amount of the standard deduction allowed under the Code less the amount by  
11 which the standard deduction has been increased under section 63(e)(4) of the Code and  
12 without making allowance for any other deductions. An employer shall deduct and  
13 withhold from the wages of each employee the State income taxes payable by the  
14 employee on the wages. For each payroll period, the employer shall withhold from the  
15 employee's wages an amount that would approximate the employee's income tax  
16 liability under Article 4 of this Chapter if the employer withheld the same amount from  
17 the employee's wages for each similar payroll period in a calendar year. In calculating  
18 an employee's anticipated income tax liability, the employer shall allow for the  
19 exemptions, deductions, and credits to which the employee is entitled under Article 4 of  
20 this Chapter. The amount of State income taxes withheld by an employer is held in trust  
21 for the Secretary."

22       Sec. 8. G.S. 105-163.3 reads as rewritten:

23       "**§ 105-163.3. Withholding in accordance with regulations.**

24       The manner of withholding and the amount to be deducted and withheld under G.S.  
25 105-163.2 shall be determined in accordance with tables, rules, and regulations  
26 ~~promulgated~~ adopted by the Secretary. The withholding exemption allowed by these  
27 tables, rules, and regulations shall, as nearly as possible, approximate the exemptions to  
28 which an employee would be entitled under the Code less the amount by which the  
29 exemptions would be increased under section 151(d)(3) of the Code. Article 4 of this  
30 Chapter."

31       Sec. 9. G.S. 105-163.4 reads as rewritten:

32       "**§ 105-163.4. Basis of determination of remuneration being wages. No withholding**  
33       **from reimbursement for expenses.**

34       If any of the remuneration paid by an employer to an employee during any payroll  
35 period or during any miscellaneous period without reference to a payroll period  
36 constitutes actual The amount an employer pays an employee as reimbursement of the  
37 employee for ordinary and necessary expenses incurred by the employee on behalf of  
38 the employer and in the furtherance of the business of the employer, then such amounts  
39 as are paid to reimburse the employee for such expenses are not to be considered as  
40 wages and no amounts shall be deducted and withheld therefrom. employer is not wages  
41 and is not subject to withholding under this Article."

42       Sec. 10. G.S. 105-163.6 reads as rewritten:

1 ~~"§ 105-163.6. Payment of amounts withheld; personal liability for failure to~~  
2 ~~withhold; limitation of recovery. When employer must file returns and~~  
3 ~~pay withheld taxes.~~

4 (a) ~~Every employer required to deduct and withhold from an employee's wages~~  
5 ~~under G.S. 105-163.2 shall, for the quarterly period beginning January 1, 1960, and for~~  
6 ~~each quarterly period thereafter, on or before the last day of the month following the~~  
7 ~~close of each quarterly period, make return and pay over to the Secretary the amounts~~  
8 ~~required to be withheld under G.S. 105-163.2. Such returns shall be in such form and~~  
9 ~~contain such information as the Secretary may prescribe. General.— A return is due~~  
10 ~~quarterly or monthly as specified in this section. A return shall be filed with the~~  
11 ~~Secretary on a form prepared by the Secretary, shall report any payments of withheld~~  
12 ~~taxes made during the period covered by the return, and shall contain any other~~  
13 ~~information required by the Secretary.~~

14 ~~Withheld taxes are payable quarterly, monthly, or within three banking days after~~  
15 ~~paying wages, as specified in this section. Withheld taxes shall be paid to the Secretary~~  
16 ~~or to a financial institution with which the Secretary has entered a contract to receive~~  
17 ~~payment of withheld taxes.~~

18 ~~If the Secretary finds that collection of the amount of taxes this Article requires an~~  
19 ~~employer to withhold is in jeopardy, the Secretary may require the employer to file a~~  
20 ~~return or pay withheld taxes at a time other than that specified in this section.~~

21 (b) ~~Notwithstanding any of the other provisions of this section, all transient~~  
22 ~~employers shall make return and pay over to the Secretary on a monthly basis the~~  
23 ~~amounts required to be withheld under G.S. 105-163.2. Such returns and payments to~~  
24 ~~the Secretary by transient employers shall be made on or before the fifteenth day of the~~  
25 ~~month following the month for which such amounts were deducted and withheld from~~  
26 ~~the wages of his employees; except that the returns and payments for the month of~~  
27 ~~December shall be made on or before the 31st day of the following month. Quarterly.—~~  
28 ~~An employer who withholds an average of less than five hundred dollars (\$500.00) of~~  
29 ~~State income taxes from wages each month shall file a return and pay the withheld taxes~~  
30 ~~on a quarterly basis. A quarterly return covers a calendar quarter and is due by the last~~  
31 ~~day of the month following the end of the quarter.~~

32 (c) ~~Notwithstanding any of the other provisions of this section, all employers~~  
33 ~~engaged in any business which is seasonal shall make return and pay over to the~~  
34 ~~Secretary on a monthly basis the amounts required to be withheld under G.S. 105-163.2.~~  
35 ~~Such returns and payments to the Secretary by employers engaged in such seasonal~~  
36 ~~business shall be made on or before the fifteenth day of the month following the month~~  
37 ~~for which such amounts were deducted and withheld from the wages of his employees;~~  
38 ~~except that the returns and payments for the month of December shall be made on or~~  
39 ~~before the 31st day of the following month. Monthly.— An employer who withholds an~~  
40 ~~average of at least five hundred dollars (\$500.00) but less than three thousand dollars~~  
41 ~~(\$3,000) from wages each month shall file a return and pay the withheld taxes on a~~  
42 ~~monthly basis. A return for the months of January through November is due by the 15th~~  
43 ~~day of the month following the end of the month covered by the return. A return for~~  
44 ~~the month of December is due the following January 31.~~

~~(e1) Notwithstanding any of the other provisions of this section, every employer required to deduct and withhold under the provisions of G.S. 105-163.2 an average of five hundred dollars (\$500.00) or more per month during the preceding calendar year (or during so much of such year as he paid wages) and every employer who begins paying wages during a calendar year and whose liability to deduct and withhold under G.S. 105-163.2 can reasonably be expected to average five hundred dollars (\$500.00) or more per month in that calendar year, shall make returns and pay over to the Secretary each month the amounts required to be withheld under G.S. 105-163.2. Returns and payments to the Secretary by such employers shall be made on or before the fifteenth day of the month following the month for which such amounts were required to be withheld from the wages of employees; except that the returns and payments for the month of December shall be made on or before the 31st day of the following month.~~

~~When an employer has become subject to the requirements of this subsection, he shall continue to make returns and payments to the Secretary on that basis. However, an employer required under the provisions of this subsection to file monthly returns who, in a later calendar year, is required to deduct and withhold under G.S. 105-163.2 an average of less than five hundred dollars (\$500.00) per month may make application to the Secretary for authority to use the quarterly basis for filing and making payments. Such authority, when granted, shall be in writing, shall commence on a date set by the Secretary, and shall continue until the Secretary, in the exercise of his discretion, shall revoke it in writing, effective on a date set by him.~~

~~(d) If the Secretary, in any case, has reason to believe that the collection of moneys, required by this Article to be withheld by the employer, is in jeopardy, he may require the employer to make such return and pay to the Secretary such amounts required to be withheld at any time said Secretary may designate therefor subsequent to the time when such amounts should have been deducted from wages and withheld. Three Banking Days.— An employer who withholds an average of at least three thousand dollars (\$3,000) of State income taxes from wages each month shall file a return by the date set under the Code for filing a return for federal income taxes withheld from the same wages and shall pay the withheld State taxes by the date set under the Code for depositing or paying federal income taxes withheld from the same wages. An extension of time granted to file a return for federal income taxes withheld from wages is an automatic extension of time for filing a return for State income taxes withheld from the same wages, and an extension of time granted to pay federal income taxes withheld from wages is an automatic extension of time for paying State income taxes withheld from the same wages. An employer who pays withheld State income taxes under this subsection is not subject to interest on or penalties for an underpayment of an amount due if the employer timely pays at least ninety-five percent (95%) of the amount due and includes the underpayment with the next payment the employer makes.~~

~~(e) Every employer who fails to withhold or pay to the Secretary any sums required by this Article to be withheld and paid shall be personally and individually liable therefor to the Secretary; and any sum or sums withheld in accordance with the provisions of G.S. 105-163.2 shall be deemed to be held in trust for the Secretary. Category.— The Secretary shall monitor the amount of taxes withheld by an employer~~

1 or estimate the amount of taxes to be withheld by a new employer and shall direct each  
2 employer to pay withheld taxes in accordance with the appropriate schedule. An  
3 employer shall file a return and pay withheld taxes in accordance with the Secretary's  
4 direction until notified in writing to file and pay under a different schedule.

5 ~~(f) Any person required to collect, truthfully account for, and pay over any~~  
6 ~~amounts required to be deducted and withheld under G.S. 105-163.2, who fails to~~  
7 ~~collect and pay over such amount shall, in addition to other penalties provided by law,~~  
8 ~~be personally liable to a penalty equal to the total amount not collected or not accounted~~  
9 ~~for and paid over. No penalty shall be imposed under G.S. 105-163.17 for any offense~~  
10 ~~to which this subsection is applicable."~~

11 Sec. 11. G.S. 105-163.7(b) reads as rewritten:

12 "(b) ~~The written statement above referred to shall be furnished at such other times,~~  
13 ~~shall contain such other information, and shall be in such form as the Secretary may by~~  
14 ~~regulations prescribe. Secretary may require an employer to include information not~~  
15 ~~listed in subsection (a) on the employer's written statement to an employee and to file~~  
16 ~~the statement at a time not required by subsection (a). Every employer shall file an~~  
17 ~~annual report with the Secretary that contains the information given on each of the~~  
18 ~~employer's written statements to an employee and other information required by the~~  
19 ~~Secretary. The annual report is due on the same date the employer's federal information~~  
20 ~~return of federal income taxes withheld from wages is due under the Code. returns or~~  
21 ~~reports setting forth such information as the Secretary may require, and the Secretary~~  
22 ~~may require the filing of such additional copies of all written statements described~~  
23 ~~above as he may deem necessary. On and after January 1, 1961, the annual returns or~~  
24 ~~reports required to be made to the Secretary under the provisions of this section shall be~~  
25 ~~in lieu of such returns required under G.S. 105-154 as would furnish identical~~  
26 ~~information. The report required by this subsection is in lieu of the report required by~~  
27 ~~G.S. 105-154."~~

28 Sec. 12. G.S. 105-163.8 reads as rewritten:

29 **§ 105-163.8. Liability of employer, employer and others.**

30 ~~An employer shall be liable for the payment to the Secretary of the amounts required~~  
31 ~~to be deducted and withheld under G.S. 105-163.2, and an employer who has withheld~~  
32 ~~and paid such amounts to the Secretary shall not otherwise be liable to any person for~~  
33 ~~the amounts of any such payments. Upon failure of an employer to pay over any~~  
34 ~~amounts withheld or required to be withheld by said employer under this Article, the~~  
35 ~~Secretary may make assessments, issue warrants for the collection of such amounts,~~  
36 ~~issue certificates of tax liability, collect by attachment or garnishment proceedings, or~~  
37 ~~bring actions for the collection of such amounts and for penalties due under the~~  
38 ~~provisions of G.S. 105-241.1, G.S. 105-242 and G.S. 105-243.~~

39 (a) Employer. An employer who withholds the proper amount of taxes under  
40 G.S. 105-163.2 and pays the withheld amount to the Secretary is not liable to any person  
41 for the amount paid. An employer who fails to withhold the proper amount of taxes or  
42 pay the amount withheld to the Secretary is liable for the amount not withheld or not  
43 paid. An employer who fails to withhold the amount of income taxes required by this  
44 Article or who fails to pay withheld taxes by the due date for paying the taxes is subject



1 to a penalty equal to twenty-five percent (25%) of the amount of taxes not withheld or  
2 not timely paid to the Secretary.

3 (b) Others. A person who has a duty to deduct, account for, or pay taxes required  
4 to be withheld under G.S. 105-163.2 and who fails to do so is liable for the amount not  
5 deducted, not accounted for, or not paid."

6 Sec. 13. G.S. 105-163.9 reads as rewritten:

7 **"§ 105-163.9. Refund to employer; application. of overpayment to employer.**

8 (a) ~~Where there has been an overpayment to the Secretary by the employer or~~  
9 ~~withholding agent under the provisions of this Article, refund shall be made to the~~  
10 ~~employer or withholding agent, as the case may be, only to the extent that the amount of~~  
11 ~~such overpayment was not deducted and withheld by the employer or withholding agent~~  
12 ~~from the employee's wages, and such refund shall be paid together with interest thereon~~  
13 ~~at the rate established in G.S. 105-241.1(i) for assessments; provided, that interest on~~  
14 ~~any such refund shall be computed from a date 90 days after the date the overpayment~~  
15 ~~was originally made by the employer or withholding agent. An employer who pays the~~  
16 ~~Secretary more under this Article than the Article requires the employer to pay may~~  
17 ~~obtain a refund of the overpayment by filing an application for a refund with the~~  
18 ~~Secretary. No refund is allowed, however, if the employer withheld the amount of the~~  
19 ~~overpayment from the wages of the employer's employees. An employer must file an~~  
20 ~~application for a refund within the time period set in G.S. 105-266. Interest accrues on~~  
21 ~~a refund as provided in G.S. 105-266.~~

22 (b) ~~Unless written application for refund is received by the Secretary from the~~  
23 ~~employer within two years from the date the overpayment was made, no refund shall be~~  
24 ~~allowed."~~

25 Sec. 14. G.S. 105-163.17 reads as rewritten:

26 **"§ 105-163.17. Enforcement. Administration.**

27 ~~Except as otherwise provided in this Article, all provisions of Articles 4 and The~~  
28 ~~provisions of Article 9 of this Chapter relating to assessments, interest on delinquent~~  
29 ~~payments, liens and collections with respect to taxes shall apply to all taxes and to the~~  
30 ~~withholding of proper amounts from employees' wages for which an employer is~~  
31 ~~responsible pursuant to this Article, and the procedure with respect thereto shall be the~~  
32 ~~same as provided in said Articles 4 and 9 with respect to assessment and collection of~~  
33 ~~taxes.~~

34 ~~Any employer required under the provisions of this Article to deduct and withhold~~  
35 ~~from wages and make returns and payment of amounts withheld to the Secretary, who~~  
36 ~~fails to withhold such amounts, or to make such returns, or who fails to remit amounts~~  
37 ~~collected to the Secretary, or otherwise fails to remit to the Secretary as required by this~~  
38 ~~Article, shall be subject to a penalty equal to twenty five percent (25%) of the amount~~  
39 ~~that should have been properly withheld and paid over to the Secretary for each such~~  
40 ~~failure. Such penalty shall be assessed and collected by the Secretary in the same~~  
41 ~~manner as is provided with respect to penalties on delinquent income tax payments~~  
42 ~~under the provisions of Articles 4 and 9 of this Chapter.~~

43 ~~The withholding of the proper amounts of an employee's wages pursuant to this~~  
44 ~~Article and the payment of proper amounts to the Secretary as herein required, whether~~

1 ~~withheld in fact or not, shall be subject to all the provisions of Articles 4 and 9 of this~~  
2 ~~Chapter relating to payment of income taxes, not inconsistent with this Article. apply to~~  
3 ~~the amount of State income taxes this Article requires an employer to withhold and pay~~  
4 ~~to the Secretary."~~

5 Sec. 15. G.S. 105-259 reads as rewritten:

6 **"§ 105-259. Secrecy required of officials; penalty for violation.**

7 With respect to any one of the following persons: (i) the Secretary of Revenue  
8 and all other officers or employees, and former officers and employees, of the  
9 Department of Revenue; (ii) local tax officials, as defined in G.S. 105-273, and former  
10 local tax officials; (iii) members and former members of the Property Tax Commission;  
11 (iv) any other person authorized in this section to receive information concerning any  
12 item contained in any report or return, or authorized to inspect any report or return; and  
13 (v) the Commissioner of Insurance and all other officers or employees and former  
14 officers and employees of the Department of Insurance with respect to State and federal  
15 income tax returns filed with the Commissioner of Insurance by domestic insurance  
16 companies; and except in accordance with proper judicial order or as otherwise  
17 provided by law, it shall be unlawful for any of these persons to divulge or make known  
18 in any manner the amount of income, income tax or other taxes of any taxpayer, or  
19 information relating thereto or from which the amount of income, income tax or other  
20 taxes or any part thereof might be determined, deduced or estimated, whether it is set  
21 forth or disclosed in or by means of any report or return required to be filed or furnished  
22 under this Subchapter, or in or by means of any audit, assessment, application,  
23 correspondence, schedule or other document relating to the taxpayer, notwithstanding  
24 the provisions of Chapter 132 of the General Statutes or of any other law or laws  
25 relating to public records. It shall likewise be unlawful to reveal whether or not any  
26 taxpayer has filed a return, and to abstract, compile or furnish to any person, firm or  
27 corporation not otherwise entitled to information relating to the amount of income,  
28 income tax or other taxes of a taxpayer, any list of names, addresses, social security  
29 numbers or other personal information concerning the taxpayer, whether or not the list  
30 discloses a taxpayer's income, income tax or other taxes, or any part thereof, except that  
31 when an election is made by a husband and wife under G.S. 105-152.1 to file a joint  
32 return, any information given to one spouse concerning the income or income tax of the  
33 other spouse reported or reportable on the joint return shall not be a violation of the  
34 provisions of this section.

35 Nothing in this section shall be construed to prohibit the publication of statistics, so  
36 classified as to prevent the identification of particular reports or returns, and the items  
37 thereof; the inspection of these reports or returns by the Governor, Attorney General, or  
38 their duly authorized representative; or the inspection by a legal representative of the  
39 State of the report or return of any taxpayer who shall bring an action to set aside or  
40 review the tax based thereon, or against whom an action or proceeding has been  
41 instituted to recover any tax or penalty imposed by this Subchapter; nor shall the  
42 provisions of this section prohibit the Department of Revenue furnishing information to  
43 other governmental agencies of persons and firms properly licensed under Schedule B,  
44 G.S. 105-33 to 105-113. The Department of Revenue may exchange information with

1 the officers of organized associations of taxpayers under Schedule B, G.S. 105-33 to  
2 105-113, with respect to parties liable for these taxes and as to parties who have paid  
3 these license taxes.

4 When any record of the Department of Revenue has been photographed,  
5 photocopied, or microphotocopied pursuant to the authority contained in G.S. 8-45.3,  
6 the original of that record may thereafter be destroyed at any time upon the order of the  
7 Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-2, or any  
8 other law relating to the preservation of public records. Any record that has not been so  
9 photographed, photocopied, or microphotocopied shall be preserved for three years, and  
10 thereafter until the Secretary of Revenue orders it destroyed.

11 Any person, officer, agent, clerk, employee, or local tax official or any former  
12 officer, employee, or local tax official who violates the provisions of this section shall  
13 be guilty of a misdemeanor and fined not less than two hundred dollars (\$200.00) nor  
14 more than one thousand dollars (\$1,000) and/or imprisoned, in the discretion of the  
15 court; and if the person committing the violation is a public officer or employee, that  
16 person shall be dismissed from such office or employment, and may not hold any public  
17 office or employment in this State for a period of five years thereafter.

18 Notwithstanding the provisions of this section, the Secretary of Revenue may permit  
19 the Commissioner of Internal Revenue of the United States, or the revenue officer of  
20 any other state imposing any of the taxes imposed in this Subchapter, or the duly  
21 authorized representative of either, to inspect the report or return of any taxpayer; or  
22 may furnish that person an abstract of the report or return of any taxpayer; or supply that  
23 person with information concerning any item contained in any report or return, or  
24 disclosed by the report of any investigation of any report or return of any taxpayer. The  
25 permission, however, may be granted or the information furnished to the officer or  
26 agent only if the statutes of the United States or of the other state grant substantially  
27 similar privilege to the Secretary of Revenue of this State or the Secretary's duly  
28 authorized representative. Notwithstanding any other provision of law, the Secretary  
29 may also furnish names, addresses, and account and identification numbers of (i)  
30 taxpayers who may be entitled to property held in the Escheat Fund to the  
31 Department of State Treasurer when that Department requests the information for the  
32 purpose of administering Chapter 116B of the General Statutes, and (ii) taxpayers to the  
33 Employment Security Commission when that Commission requests the information for  
34 the purpose of administering Article 2 of Chapter 96 of the General Statutes. Neither  
35 this section nor any other law prevents the exchange of information between the  
36 Department of Revenue and the Department of Transportation's Division of Motor  
37 Vehicles when the information is needed by either to administer the laws with which  
38 they are charged. Notwithstanding any other provision of law, State officers and  
39 employees who perform computerized data processing functions pursuant to G.S. 143-  
40 341(9) for the Department of Revenue are authorized to receive and process for the  
41 Department of Revenue information in reports and returns and are subject to the  
42 criminal provisions of this section.

43 Notwithstanding the provisions of this section, the Secretary of Revenue may  
44 contract with any person, firm or corporation to receive and address, sort, bag, or deliver

1 to the United States Postal Service any bulk mailing originated by the Department of  
2 Revenue, and may deliver the mail to the contractor pursuant to the contract. To ensure  
3 performance of the contract, the contractor shall furnish a bond in a form and amount  
4 acceptable to the Secretary.

5 Notwithstanding the provisions of this section, the Secretary of Revenue may  
6 contract with a financial institution for the receipt of withheld income tax payments  
7 under G.S. 105-163.6."

8 Sec. 16. The revenue generated by this act is nonrecurring revenue and shall  
9 therefore be used to fund only nonrecurring expenses.

10 Sec. 17. Sections 1 through 4 of this act shall become effective October 1,  
11 1990, and shall apply to gross receipts earned from services and commodities provided  
12 on or after that date and to sales of electricity, piped natural gas, or local  
13 telecommunications service made on or after that date. Sections 5 through 15 of this act  
14 shall become effective January 1, 1991. The remaining sections of this act are effective  
15 upon ratification.