SESSION 1995

S

SENATE BILL 1226*

Short Title: 1996 Tax Reform Act.

Sponsors: Senators Kerr, Cochrane, Cooper, Soles; and Hoyle.

Referred to: Finance.

May 21, 1996

1	A BILL TO BE ENTITLED
2	AN ACT TO PROVIDE TAX REFORM AND TAX RELIEF FOR THE CITIZENS OF
3	NORTH CAROLINA.
4	The General Assembly of North Carolina enacts:
5	
6	TABLE OF CONTENTS
7	I. REFORM UNCONSTITUTIONAL TAX PROVISIONS
8	II. VOLUNTARY USE TAX COLLECTION
9	III. PROVIDE AUTOMATIC ANNUAL INCOME TAX REDUCTIONS
10	IV. REPEAL STATE PRIVILEGE LICENSE TAXES
11	V. SIMPLIFY AND REDUCE INHERITANCE TAXES; REPEAL GIFT TAXES
12	VI. EFFECTIVE DATES
13	
14	PART I. REFORM UNCONSTITUTIONAL TAX PROVISIONS
15	Section 1. G.S. 105-130.38, 105-151.15, and 105-151.19 are repealed.
16	Sec. 2. G.S. 105-130.7 reads as rewritten:
17	"§ 105-130.7. Deductible portion of dividends.
18	Dividends from stock issued by any-a corporation shall be deducted to the extent herein
19	providedare deductible to the extent provided in this section.

1

(Public)

1 2

3

4

5

6

7

8

9

10

11 12

13

14

15 16

17

18

19

20

21

22

23 24

25

26 27

28

29

30

31

32 33

34

35

36

37

- (1)As soon as may be practicable after September 30 of each year, the Secretary of Revenue shall determine from the corporate income tax return filed during the year ending September 30 by each corporation required to file a return during that period the proportion of the entire net income or loss of the corporation allocable to this State under the provisions of G.S. 105-130.4, except as provided herein. If a corporation has a net income in North Carolina and a net loss from all sources wherever located, or if a corporation has a net loss in North Carolina and a net income from all sources wherever located, the Secretary shall require the use of the allocation fraction determined under the provisions of G.S. 105-130.4. A corporation which is a stockholder in any such corporation shall be allowed to deduct the same proportion of the dividends received by it from such corporation during its income year ending on or after September 30. No deduction shall be allowed for any part of any dividend received from any corporation that was required to file an income tax return during the year ending September 30 but failed to file the return. In the case of dividends received from a corporation that was not required to file a return during the year ending September 30, the proportion of dividends deductible by the stockholder shall be determined by the Secretary from the best information available. (2)Dividends received by a corporation from stock in any insurance company of this State taxed under the provisions of G.S. 105-228.5
 - (2) Dividends received by a corporation from stock in any insurance company of this State taxed under the provisions of G.S. 105-228.5 shall be deductible by such corporation, and a proportionate part of any dividends received from stock in any foreign insurance corporation shall be deductible, such part to be determined on the basis of the ratio of premiums reported for taxation in this State to total premiums collected both in and out of this State.
 - (3) A corporation shall be allowed to <u>may</u> deduct such proportionate part of dividends received by it from a regulated investment company or a real estate investment trust, as defined in G.S. 105-130.12, as represents and corresponds to income received by such regulated investment company or real estate investment trust which would not be taxed by this State if received directly by the corporation.
 - (3a) Dividends received on shares of capital stock owned in a stock-owned savings and loan association taxed under Article 8D of this Chapter shall be deductible.
- 38 (4) Notwithstanding the provisions of subdivisions (1) through (3a) of this
 39 section, a corporation which, at the close of its taxable year, has its
 40 commercial domicile within North Carolina shall be allowed to deduct
 41 all dividends received from corporations in which it owns more than
 42 fifty percent (50%) of the outstanding voting stock.

1	(5) Notwithstanding any other provisions of this Division, a corporation
2	which is a shareholder in a holding company shall be allowed as a
3	deduction an amount equal to those dividends received by it from such
4	holding company, multiplied by a fraction, the numerator of which shall
5	be the dividends received by such holding company attributable to
6	North Carolina, and the denominator of which shall be the gross
7	dividends received by such holding company; provided, however, that
8	no deduction shall be allowed where the fraction is smaller than one-
9	third (1/3). For purposes of this section, "dividends attributable to
10	North Carolina" shall be the amount of dividend income received by the
11	holding company on stock owned in other corporations equal to the total
12	of the proportion of each of such corporation's dividends as shall be
13	determined deductible by the Secretary under subdivisions (1) through
14	(3a) of this section; provided that a holding company which owns more
15	than fifty percent (50%) of the outstanding voting stock of one or more
16	holding companies as defined in this subdivision shall be permitted a
17	deduction for all dividends received from such holding companies and
18	all other corporations in which it owns more than fifty percent (50%) of
19	the outstanding voting stock except that no deduction shall be allowed if
20	less than one-third (1/3) of the dividends received by the holding
21	company are attributable to North Carolina. A shareholder of such a
22	holding company shall determine the deductible portion of its dividends
23	received from such holding company as hereinabove provided except
24	that the amounts received from a subsidiary holding company as
25	"dividends attributable to North Carolina" shall be determined as though
26	the subsidiary corporation of the subsidiary holding company had paid
27	the dividends directly to the parent holding company. For the purposes
28	of this section and unless the context clearly requires a different
29	meaning, "holding company" shall mean any corporation subject to the
30	tax imposed by G.S. 105-130.3 whose ordinary gross income consists of
31	fifty percent (50%) or more of dividend income received from
32	corporations in which it owns more than fifty percent (50%) of the
33	outstanding voting stock, and "subsidiary" shall mean any corporation,
34	more than fifty percent (50%) of whose outstanding voting stock is
35	owned by another corporation. For the purposes of this subsection, the
36	term "dividend" includes, in addition to corporate dividends,
37	distributions received from a partnership by a corporation owning more
38	than a fifty percent (50%) interest in the partnership.
39	(6) In no case shall the total amount of dividends that are allowed as a
40	deduction to a corporation as a result of the application of subdivisions (1)
41	through (3a) under subdivision (3) of this section be in excess of exceed
42	fifteen thousand dollars (\$15,000) for the taxable year."
43	Sec. 3. G.S. 105-130.5(b)(3) reads as rewritten:

1	"(3) The deductible portion of dividends from stock issued by any corporation
2	as provided under G.S. 105-130.7."
3	Sec. 4. G.S. 105-130.4(f) reads as rewritten:
4	"(f) Interest and net dividends are allocable to this State if the corporation's
5	commercial domicile is in this State subject to the following limitations: State. For
6	(1) Net dividends received by a corporation from another corporation in
7	which the recipient corporation owns fifty (50%) or more per centum of
8	the paying corporation's voting stock, shall be allocated to this State if
9	the paying corporation is subject to income tax in this State. In such
10	case, the net amount of such dividends received by the recipient
11	corporation from the paying corporation is allocable to this State by use
12	of the same percentage figure used in determining the portion of the
13	paying corporation's dividends deductible under the provisions of G.S.
14	105-130.7.
15	(2) For-purposes of this section, the net amount of dividends shall mean-term
16	'net dividends' means gross dividend income received less related
17	expenses and less that portion of such the dividends deductible under the
18	provisions of G.S. 105-130.7."
19	Sec. 5. G.S. 105-163.012(b) reads as rewritten:
20	"(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-
21	163.011 for investments made in a calendar year may not exceed twelve million dollars
22	(\$12,000,000)six million dollars (\$6,000,000). The Secretary of Revenue shall calculate
23	the total amount of tax credits claimed from the applications filed pursuant to G.S. 105-
24	163.011(c). If the total amount of tax credits claimed for investments made in a calendar
25	year exceeds twelve million dollars (\$12,000,000), six million dollars (\$6,000,000), the
26	Secretary shall allow a portion of the credits claimed on the following basis: by allocating a
27	total of six million dollars (\$6,000,000) in tax credits in proportion to the size of the
28	<u>credit claimed by each taxpayer.</u>
29	(1) A total of six million dollars (\$6,000,000) in tax credits for investments
30	in North Carolina Enterprise Corporations shall be allocated among all
31	taxpayers claiming the credits in proportion to the size of the credit
32	claimed by each taxpayer.
33	(2) A total of six million dollars (\$6,000,000) in tax credits for investments
34	in qualified business ventures and qualified grantee businesses shall be
35	allocated among all taxpayers claiming the credits in proportion to the
36	size of the credit claimed by each taxpayer.
37	(3) If the total amount of the credits claimed by taxpayers for the
38	investments described in either subdivision (1) or (2) is less than six
39	million dollars (\$6,000,000), the Secretary shall allow additional credits
40	for the investments described in the other subdivision until the total
41	amount of all tax credits allowed equals twelve million dollars
42	$(\frac{12,000,000}{12})$."
43	Sec. 6. G.S. 105-130.7(4) reads as rewritten:

1	"(4)	Notwithstanding the provisions of subdivisions (1) through (3a) of this
2		section, a corporation which, at the close of its taxable year, has its
3		commercial domicile within North Carolina shall be allowed to A
4		corporation may deduct all dividends dividends, less related expenses,
5		received from corporations in which it owns more than fifty percent
6		(50%) of the outstanding voting stock. The amount of direct or indirect
7		expenses related to dividends deductible under this subdivision is
8		presumed to be fifteen percent (15%) of the amount of the dividends. A
9		taxpayer who claims a smaller amount of related expenses must
10		maintain and make available for inspection by the Secretary all records
11		necessary to determine and verify the amount claimed."
12		7. Division V of Article 4 of Chapter 105 of the General Statutes, as
13	•	s act, reads as rewritten:
14	''DIVISION V	/. TAX CREDITS FOR QUALIFIED BUSINESS INVESTMENTS.
15		
16		. (Repealed effective for investments made on or after January 1,
17	· · · · · · · · · · · · · · · · · · ·	Definitions.
18	The following	ng definitions apply in this Division:
19	(1)	Affiliate An individual or business that controls, is controlled by, or
20		is under common control with another individual or business.
21	(2)	Business. – A corporation, partnership, association, or sole
22		proprietorship operated for profit.
23	(3)	Control A person controls an entity if the person owns, directly or
24		indirectly, more than ten percent (10%) of the voting securities of that
25		entity. As used in this subdivision, the term 'voting security' means a
26		security that (i) confers upon the holder the right to vote for the election
27		of members of the board of directors or similar governing body of the
28		business or (ii) is convertible into, or entitles the holder to receive upon
29		its exercise, a security that confers such a right to vote. A general
30		partnership interest is a voting security.
31	(4)	Equity security Common stock, preferred stock, or an interest in a
32		partnership, or subordinated debt that is convertible into, or entitles the
33		holder to receive upon its exercise, common stock, preferred stock, or
34	<i>(</i> -)	an interest in a partnership.
35	(5)	Financial institution. – A business that is (i) a bank holding company, as
36		defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841
37		et seq., or its wholly-owned subsidiary, (ii) registered as a broker-dealer
38		under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a et seq., or
39		its wholly-owned subsidiary, (iii) an investment company as defined in
40		the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq.,
41		whether or not it is required to register under that act, (iv) a small
42		business investment company as defined in the Small Business
43		Investment Act of 1958, 15 U.S.C. §§ 661 et seq., (v) a pension or

1		profit-sharing fund or trust, or (vi) a bank, savings institution, trust
2		company, financial services company, or insurance company; provided,
3		however, that a business, other than a small business investment
4		company, is not a financial institution if its net worth, when added to the
5		net worth of all of its affiliates, is less than ten million dollars
6		(\$10,000,000); provided further, however, that a business is not a
7		financial institution if it does not generally market its services to the
8		public and it is controlled by a business that is not a financial institution.
9	(6)	Repealed by Session Laws 1991, c. 637.
10	(6a)	North Carolina Enterprise Corporation A corporation established in
11		accordance with Article 3 of Chapter 53A of the General Statutes or a
12		limited partnership in which a North Carolina Enterprise Corporation is
13		the only general partner.
14	(6b)	Pass-through entity. – An entity or business, including a limited
15	< / <u>/</u>	partnership, a general partnership, a joint venture, a Subchapter S
16		Corporation, or a limited liability company, all of which is treated as
17		owned by individuals or other entities under the federal tax laws, in
18		which the owners report their share of the income, losses, and credits
19		from the entity or business on their income tax returns filed with this
20		State. For the purpose of this Division, an owner of a pass-through
21		entity is an individual or entity who is treated as an owner under the
22		federal tax laws.
23	(7)	Qualified business venture A North Carolina business that (i) engages
24		primarily in manufacturing, processing, warehousing, wholesaling,
25		research and development, or a service-related industry, and (ii) is
26		registered with the Secretary of State under G.S. 105-163.013.
27	(8)	Qualified grantee business A North Carolina-business that (i) has
28		received during the preceding three years a grant or other funding from
29		the North Carolina Technological Development Authority, the North
30		Carolina Technological Development Authority, Inc., North Carolina
31		First Flight, Inc., the North Carolina Biotechnology Center, the
32		Microelectronics Center of North Carolina, the Kenan Institute for
33		Engineering, Technology and Science, or the Federal Small Business
34		Innovation Research Program, and (ii) is registered with the Secretary of
35		State under G.S. 105-163.013.
36	(9)	Repealed by Session Laws 1993, c. 443, s. 1.
37	(9a)	Real estate-related business A business that is involved in or related
38		to the brokerage, selling, purchasing, leasing, operating, or managing of
39		hotels, motels, nursing homes or other lodging facilities, golf courses,
40		sports or social clubs, restaurants, storage facilities, or commercial or
41		residential lots or buildings is a real estate-related business, except that a
42		real estate-related business does not include (i) a business that purchases
43		or leases real estate from others for the purpose of providing itself with

1		facilities from which to conduct a business that is not itself a real estate-
2		related business or (ii) a business that is not otherwise a real estate-
3		related business but that leases, subleases, or otherwise provides to one
4		or more other persons a number of square feet of space which in the
5		aggregate does not exceed fifty percent (50%) of the number of square
6		feet of space occupied by the business for its other activities.
7	(9b)	Selling or leasing at retail. – A business is selling or leasing at retail it
8		the business either (i) sells or leases any product or service of any nature
9		from a store or other location open to the public generally or (ii) sells on
10		leases products or services of any nature by means other than to or
11		through one or more other businesses.
12	(9c)	Service-related industry A business is engaged in a service-related
13		industry, whether or not it also sells a product, if it provides services to
14		customers or clients and does not as a substantial part of its business
15		engage in a business described in G.S. 105-163.013(b)(4). A business is
16		engaged as a substantial part of its business in an activity described in
17		G.S. 105-163.013(b)(4) if (i) its gross revenues derived from all
18		activities described in that subdivision exceed twenty-five percent
19		(25%) of its gross revenues in any fiscal year or (ii) it is established as
20		one of its primary purposes to engage in any activities described in that
21		subdivision, whether or not its purposes were stated in its articles of
22		incorporation or similar organization documents.
23	(10)	Security. – A security as defined in Section 2(1) of the Securities Act of
24		1933, 15 U.S.C. § 77b(1).
25	(11)	Subordinated debt. – Indebtedness that (i) by its terms matures five or
26		more years after its issuance, (ii) is not secured, and (iii) is subordinated
27		to all other indebtedness of the issuer issued or to be issued to a
28		financial institution other than a financial institution described in
29		subdivisions $(5)(ii)$ through $(5)(v)$ of this section. Any portion of
30		indebtedness that matures earlier than five years after its issuance is not
31		subordinated debt.
32		. (Repealed effective for investments made on or after January 1,
33	· · · · · · · · · · · · · · · · · · ·	Tax credits allowed.
34		redit for Brokered Investments No credit is allowed under this section
35	-	f equity securities or subordinated debt if a broker's fee or commission or
36		emuneration is paid or given directly or indirectly for soliciting the
37	purchase.	
38		Subject to the limitations contained in G.S. 105-163.012, a corporation
39		he equity securities of a North Carolina Enterprise Corporation directly
40	-	prise Corporation is allowed as a credit for the taxable year an amount
41		r-five percent (25%) of the amount invested. The aggregate amount of
42	credit allowed a	corporation for one or more investments in a single taxable year under

43 this Division, whether directly or indirectly as owner of a pass-through entity, may not

exceed seven hundred fifty thousand dollars (\$750,000). The credit is allowed against one
 or more of the following taxes:

- 3 4
- (1) The income tax imposed by Division I of this Article.
- (2) The franchise tax imposed by G.S. 105-116, 105-120.2, and 105-122.
- 5 6

- The gross premiums tax imposed by G.S. 105-120.2, and 105-122. The gross premiums tax imposed by G.S. 105-228.5 and G.S. 105-
- (3) The g

The credit may not be taken for the year in which the investment is made but shall be
taken for the taxable year beginning during the calendar year in which the application for
the credit becomes effective as provided in subsection (c) of this section. This
subsection does not apply to a corporation that is also a pass-through entity.

(b) Individuals. - Subject to the limitations contained in G.S. 105-163.012, an 11 12 individual who purchases the equity securities or subordinated debt of (i) a qualified 13 business venture, (ii) a qualified grantee business, or (iii) a North Carolina Enterprise 14 Corporation a qualified business venture or a qualified grantee business directly from that entity-business is allowed as a credit against the tax imposed by Division II of this Article 15 for the taxable year an amount equal to twenty-five percent (25%) of the amount 16 17 invested. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Division, whether directly or indirectly as 18 19 owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000). The 20 credit may not be taken for the year in which the investment is made but shall be taken 21 for the taxable year beginning during the calendar year in which the application for the 22 credit becomes effective as provided in subsection (c) of this section.

Pass-Through Entities. - This subsection does not apply to a pass-through 23 (b1) 24 entity that has committed capital under management in excess of five million dollars (\$5,000,000) or to a pass-through entity that is a qualified grantee business, a qualified 25 business venture, or a North Carolina Enterprise Corporation. Subject to the limitations 26 provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities 27 or subordinated debt of a qualified grantee business, business or a qualified business 28 29 venture, or a North Carolina Enterprise Corporation-venture directly from the business or 30 Corporation is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more 31 investments in a single taxable year under this Division, whether directly or indirectly as 32 owner of another pass-through entity, may not exceed seven hundred fifty thousand 33 34 dollars (\$750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but shall be eligible for the 35 credit for the taxable year beginning during the calendar year in which the application for 36 the credit becomes effective as provided in subsection (c) of this section. 37

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Division II of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Division, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000).

Each corporation that is an owner of a pass-through entity is allowed as a credit for 1 2 the taxable year an amount equal to the corporation's allocated share of the tax credits for 3 which the pass-through entity is eligible under this subsection as a result of the pass-4 through entity's investment in equity securities of a North Carolina Enterprise 5 Corporation. The credit is allowed against one or more of the following taxes:

- 6
- (1)The income tax imposed by Division I of this Article.

7 8

9

(2)The franchise tax imposed by G.S. 105-116, 105-120.2, and 105-122. (3)The gross premiums tax imposed by G.S. 105-228.5 and G.S. 105-228.8.

10 The aggregate amount of credit allowed a corporation for one or more investments in a single taxable year under this Division, whether directly or indirectly as owner of a 11 12 pass-through entity, may not exceed seven hundred fifty thousand dollars (\$750,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum 13 14 allowable credit under this section for a taxable year or if a corporate owner is not eligible for the credit because the investment was not made in a North Carolina Enterprise Corporation, 15 year, the pass-through entity and its owners may not reallocate the unused credit among 16 17 the other owners.

Application. – To be eligible for the tax credit provided in this section, the 18 (c)19 taxpayer must file an application for the credit with the Secretary on or before April 15 of 20 the year following the calendar year in which the investment was made. The Secretary 21 may grant extensions of this deadline, as the Secretary finds appropriate, upon the request 22 of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the investment was made. An application is 23 effective for the year in which it is timely filed. The application shall be on a form 24 25 prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for 26 27 other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit 28 29 for an investment made by a pass-through entity must be filed by the pass-through entity.

30 Penalties. – The penalties provided in G.S. 105-236 apply in this Division. (d)

"§ 105-163.012. (Repealed effective for investments made on or after January 1, 31 1999) Limit; carry-over; ceiling; reduction in basis. 32

The credit allowed a taxpayer under G.S. 105-163.011 may not exceed the 33 (a) 34 amount of income tax imposed by Division I or-II of this Article, the amount of franchise tax imposed by Article 3 of this Chapter, or the amount of gross premiums tax imposed by 35 36 Article 8B of this Chapter, as appropriate, Article for the taxable year reduced by the sum of 37 all other credits allowable except tax payments made by or on behalf of the taxpayer. The 38 amount of unused credit allowed under G.S. 105-163.011 may be carried forward for the 39 next five succeeding years. The fifty thousand dollar (\$50,000) and seven hundred fifty thousand dollar (\$750,000) limitations-limitation on the amount of credit allowed a taxpaver 40 41 under G.S. 105-163.011 do-does not apply to unused amounts carried forward under this 42 subsection.

The total amount of all tax credits allowed to taxpayers under G.S. 105-1 (b)163.011 for investments made in a calendar year may not exceed six million dollars 2 3 (\$6,000,000). The Secretary of Revenue shall calculate the total amount of tax credits 4 claimed from the applications filed pursuant to G.S. 105-163.011(c). If the total amount 5 of tax credits claimed for investments made in a calendar year exceeds six million dollars 6 (\$6,000,000), the Secretary shall allow a portion of the credits claimed by allocating a total of six million dollars (\$6,000,000) in tax credits in proportion to the size of the 7 8 credit claimed by each taxpayer.

9 If a credit claimed under G.S. 105-163.011 is reduced as provided in this (c) 10 section, the Secretary shall notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year following the calendar year in which the 11 12 investment was made. The Secretary's allocations based on applications filed pursuant to G.S. 105-163.011(c) are final and shall not be adjusted to account for credits applied for 13 14 but not claimed.

15 (d)Unless the taxpayer is required to add the amount of allowable credit to federal taxable income under G.S. 105-130.5(a)(10), the The taxpayer's basis in the equity 16 17 securities or subordinated debt acquired as a result of an investment in a North Carolina 18 Enterprise Corporation, qualified business venture, venture or qualified grantee business shall be reduced for the purposes of this Article by the amount of allowable credit. 19 20 'Allowable credit' means the amount of credit allowed under G.S. 105-163.011 reduced as 21 provided in subsection (c) of this section.

- "§ 105-163.013. (Repealed effective for investments made on or after January 1, 22 23 1999) Registration.
- 24
- Repealed by Session Laws 1993, c. 443, s. 4. (a)

Qualified Business Ventures. - In order to qualify as a qualified business 25 (b)venture under this Division, a business must be registered with the Securities Division of 26 27 the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State 28 29 may require from time to time to determine that the business meets the requirements for 30 registration as a qualified business venture. A business meets the requirements for registration as a qualified business venture if all of the following are true as of the date 31 32 the business files the required application:

37

Its headquarters and principal business operations are in North Carolina (1)or it has, as a condition to approval of the registration, agreed to establish its headquarters and principal business operations in North Carolina within three months after the date the first investment eligible for a credit under this Division is made.

38 Either (i) it was organized after January 1 of the calendar year in which (1b)39 its application is filed or (ii) during its most recent fiscal year before filing the application, it had gross revenues, as determined in 40 accordance with generally accepted accounting principles, of five 41 42 million dollars (\$5,000,000) or less on a consolidated basis.

1	(2)	It has, as a condition to approval of the registration, agreed to retain its	
2		headquarters and principal business operations in North Carolina for at	
3		least three years after the date the last investment eligible for credit	
4		under this Division is made.	
5	(3)	It is organized to engage primarily in manufacturing, processing,	
6		warehousing, wholesaling, research and development, or a service-	
7		related industry.	
8	(4)	It does not engage as a substantial part of its business in any of the	
9		following:	
10		a. Providing a professional service as defined in Chapter 55B of the	
11		General Statutes.	
12		b. Construction or contracting.	
13		c. Selling or leasing at retail.	
14		d. The purchase, sale, or development, or purchasing, selling, or	
15		holding for investment of commercial paper, notes, other	
16		indebtedness, financial instruments, securities, or real property,	
17		or otherwise make investments.	
18		e. Providing personal grooming or cosmetics services.	
19		f. Offering any form of entertainment, amusement, recreation, or	
20		athletic or fitness activity for which an admission or a	
21		membership is charged.	
22	(5)	It was not formed for the primary purpose of acquiring all or part of the	
23		stock or assets of one or more existing businesses.	
24	(6)	It is not a real estate-related business.	
25	The effectiv	e date of registration for a qualified business venture whose application is	
26	accepted for reg	gistration is the filing date of its application. No credit is allowed under	
27	this Division for an investment made before the effective date of the registration or after		
28	the registration	is revoked.	
29		qualified as a qualified business venture, the business must renew its	
30	•	ually as prescribed by rule by filing a financial statement for the most	
31	recent fiscal ye	ar showing gross revenues, as determined in accordance with generally	
32	-	inting principles, of five million dollars (\$5,000,000) or less on a	
33		sis and an application for renewal in which the business certifies the facts	
34	<u> </u>	original application and that it has not moved its headquarters or principal	
35	-	ns out of North Carolinaapplication.	
36		qualified business venture to renew its registration by the applicable	
37	deadline shall r	esult in revocation of its registration effective as of the next day after the	

Failure of a qualified business venture to renew its registration by the applicable deadline shall result in revocation of its registration effective as of the next day after the renewal deadline, but shall not result in forfeiture of tax credits previously allowed to taxpayers who invested in the business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified business venture notice of revocation within 60 days after the renewal deadline. A qualified business venture may apply to have its registration reinstated by the Secretary of State by filing an application for reinstatement, accompanied by the reinstatement application fee and a late filing penalty of one

thousand dollars (\$1,000), within 30 days after receipt of the revocation notice from the Secretary of State. A business that seeks approval of a new application for registration after its registration has been revoked must also pay a penalty of one thousand dollars (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

5 If the gross revenues of a qualified business venture exceed five million dollars 6 (\$5,000,000) in a fiscal year, the business must notify the Secretary of State in writing of 7 this fact by filing a financial statement showing the revenues of the business for that year.

Qualified Grantee Businesses. - In order to qualify as a qualified grantee 8 (c) 9 business under this Division, a business must be registered with the Securities Division of 10 the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State 11 12 may require from time to time to determine that the business meets the requirements for registration as a qualified grantee business. A business meets the requirements for 13 14 registration as a qualified grantee business if all of the following are true as of the date the business files the required application: 15

- 16(1)Its headquarters and principal business operations are in North Carolina17or it has, as a condition to approval of the registration, agreed to18establish its headquarters and principal business operations in North19Carolina within three months after the date the first investment eligible20for a credit under this Division is made.
 - (2) It has, as a condition to approval of the registration, agreed to retain its headquarters and principal business operations in North Carolina for at least three years after the date the last investment eligible for a credit under this Division is made.
- 25(3)It-it has received during the preceding three years a grant or other26funding from the North Carolina Technological Development Authority,27the North Carolina Technological Development Authority, Inc., North28Carolina First Flight, Inc., the North Carolina Biotechnology Center, the29Microelectronics Center of North Carolina, the Kenan Institute for30Engineering, Technology and Science, or the Federal Small Business31Innovation Research Program.

The effective date of registration for a qualified grantee business whose application is accepted for registration is the filing date of its application. No credit is allowed under this Division for an investment made before the effective date of the registration or after the registration is revoked.

To remain qualified as a qualified grantee business, the business must renew its registration annually as prescribed by rule by filing an application for renewal in which the business certifies the facts listed in this subsection.

(d) Application Forms; Rules; Fees. – Applications for registration, renewal of
registration, and reinstatement of registration under this section shall be in the form
required by the Secretary of State. The Secretary of State may, by rule, require applicants
to furnish supporting information in addition to the information required by subsections
(b) and (c) of this section. The Secretary of State may adopt rules in accordance with

21

22

23

24

Chapter 150B of the General Statutes that are needed to carry out the Secretary's 1 2 responsibilities under this Division. The Secretary of State shall prepare blank forms for 3 the applications and shall distribute them throughout the State and furnish them on request. Each application shall be signed by the owners of the business or, in the case of a 4 5 corporation, by its president, vice-president, treasurer, or secretary. There shall be 6 annexed to the application the affirmation of the person making the application in the following form: 'Under penalties prescribed by law, I certify and affirm that to the best of 7 8 my knowledge and belief this application is true and complete.' A person who submits a 9 false application is guilty of a Class 1 misdemeanor.

The fee for filing an application for registration under this section is one hundred dollars (\$100.00). The fee for filing an application for renewal of registration under this section is fifty dollars (\$50.00). The fee for filing an application for reinstatement of registration under this section is fifty dollars (\$50.00).

An application for renewal of registration under this section shall indicate whether the applicant is a minority business, as defined in G.S. 143-128, and shall include a report of the number of jobs the business created during the preceding year that are attributable to investments that qualify under this section for a tax credit and the average wages paid by each job. An application that does not contain this information is incomplete and the applicant's registration may not be renewed until the information is provided.

(e) Revocation of Registration. – If the Securities Division of the Department of
the Secretary of State finds that any of the information contained in an application of a
business registered under this section is false, it shall revoke the registration of the
business. The Secretary of State shall not revoke the registration of a business solely
because it ceases business operations for an indefinite period of time, as long as the
business renews its registration each year as required under G.S. 105-163.013.

Transfer of Registration. - A registration as a qualified business venture or 26 (f)27 qualified grantee business may not be sold or otherwise transferred, except that if a qualified business venture or qualified grantee business enters into a merger, 28 29 consolidation, or other similar transaction with another business and the surviving corporation would otherwise meet the criteria for being a qualified business venture or 30 qualified grantee business, the surviving company retains the registration without further 31 application to the Secretary of State. In such a case, the qualified business venture or 32 33 qualified grantee business shall provide the Secretary of State with written notice of the merger, consolidation, or similar transaction and the name, address, and jurisdiction of 34 35 incorporation of the surviving company.

Report by Secretary of State. - The Secretary of State shall report to the 36 (g) Legislative Research Commission by October 1 of each odd-numbered year and by 37 38 February 1 of each even-numbered year all of the businesses that have registered with the 39 Secretary of State as qualified business ventures and qualified grantee businesses. The report shall include the name and address of each business, a detailed description of the 40 types of business in which it engages, whether the business is a minority business as 41 42 defined in G.S. 143-128, the number of jobs created by the business during the period covered by the report, and the average wages paid by these jobs. 43

"§ 105-163.014. (Repealed effective for investments made on or after January 1, 1999) Forfeiture of credit.

3 Participation in Business. - A taxpayer who has received a credit under this (a) Division for an investment in a qualified business venture or qualified grantee business 4 5 forfeits the credit if, within three years after the investment was made, the taxpayer 6 participates in the operation of the qualified business venture or qualified grantee business. For the purpose of this section, a taxpayer participates in the operation of a 7 8 qualified business venture or a qualified grantee business if the taxpayer, the taxpayer's 9 spouse, parent, sibling, or child, or an employee of any of these individuals or of a business controlled by any of these individuals, provides services of any nature to the 10 qualified business venture or qualified grantee business for compensation, whether as an 11 12 employee, a contractor, or otherwise. However, a person who provides services to a qualified business venture or a qualified grantee business, whether as an officer, a 13 14 member of the board of directors, or otherwise does not participate in its operation if the 15 person receives as compensation only reasonable reimbursement of expenses incurred in 16 providing the services, participation in a stock option or stock bonus plan, or both.

17 (b) False Application. – A taxpayer who has received a credit under this Division 18 for an investment in a qualified business venture or a qualified grantee business forfeits 19 the credit if the registration of the qualified business venture or qualified grantee business 20 is revoked because information in the registration application was false at the time the 21 application was filed with the Secretary of State.

22 Location Out-of-State. A taxpayer who has received a credit under this (c) Division for an investment in a qualified business venture or a qualified grantee business 23 24 does not forfeit the credit if the business fails to renew its registration, except that a taxpayer forfeits the credit if the qualified business venture (i) moves its headquarters or 25 its principal business operations outside this State within three years after the date of the 26 taxpayer's investment or (ii) in the case of a business that promised to move its 27 headquarters and principal business operations to this State as a condition to approval of 28 29 its registration, fails to comply with this condition.

30 (d) Transfer or Redemption of Investment. – A taxpayer who has received a credit
 31 under this Division for an investment in a North Carolina Enterprise Corporation, a qualified
 32 business venture, venture or a qualified grantee business forfeits the credit in the
 33 following cases:

- Within one year after the investment was made, the taxpayer transfers
 any of the securities received in the investment that qualified for the tax
 credit to another person or entity, other than in a transfer resulting from
 one of the following:
- 38 39

40

1 2

- a. The death of the taxpayer.
- b. A final distribution in liquidation to the owners of a taxpayer that is a corporation or other entity.
- 41 c. A merger, consolidation, or similar transaction requiring
 42 approval by the shareholders of the North Carolina Enterprise
 43 Corporation, qualified business venture, venture or qualified

DEWIDL I OF NORTH CAROLINA 1995
grantee business under applicable State law, to the extent the taxpayer does not receive cash or tangible property in the merger,
consolidation, or other similar transaction.
Within five years after the investment was made, the North Carolina
Enterprise Corporation, qualified business venture, venture or qualified
grantee business in which the investment was made makes a redemption
with respect to the securities received in the investment.
he taxpayer transfers fewer than all the securities in a manner that would
ure, the amount of the credit that is forfeited is the product obtained by
aggregate credit attributable to the investment by a fraction whose
the number of accurities transformed and where denominator equals the

7 with respect to the securities received in the inve 8 In the event the taxpayer transfers fewer than all the securities 9 result in a forfeiture, the amount of the credit that is forfeited is 10 multiplying the aggregate credit attributable to the investment numerator equals the number of securities transferred and whose denominator equals the 11 12 number of securities received on account of the investment to which the credit was attributable. In addition, if the redemption amount is less than the amount invested by the 13 14 taxpayer in the securities to which the redemption is attributable, the amount of the credit 15 that is forfeited is further reduced by multiplying it by a fraction whose numerator equals the redemption amount and whose denominator equals the aggregate amount invested by 16 17 the taxpaver in the securities involved in the redemption. The term 'redemption amount' 18 means all amounts paid that are treated as a distribution in part or full payment in exchange for securities under section 302(a) 19 of the Code.

20 (e) Effect of Forfeiture. – A taxpayer who forfeits a credit under this section is 21 liable for all past taxes avoided as a result of the credit plus interest at the rate established 22 under G.S. 105-241.1(i), computed from the date the taxes would have been due if the 23 credit had not been allowed. The past taxes and interest are due 30 days after the date the 24 credit is forfeited; a taxpayer who fails to pay the past taxes and interest by the due date is 25 subject to the penalties provided in G.S. 105-236."

26 27

28

1 2

3

4

5

6

(2)

Sec. 8. G.S. 53A-46 is repealed.

PART II. VOLUNTARY USE TAX COLLECTION

Sec. 9. Article V of Chapter 105 of the General Statutes is amended by adding
a new section to read:

31 "<u>§ 105-164.6A. Voluntary collection of use tax by sellers.</u>

32 Voluntary Collection Agreements. - The Secretary may enter into agreements (a) with sellers pursuant to which the seller agrees to collect and remit on behalf of its 33 customers State and local use taxes due on items of tangible personal property the seller 34 sells. For the purpose of this section, a seller is a person engaged in the business of 35 selling tangible personal property for use in this State who does not have sufficient nexus 36 with this State to be required to collect use tax on the sales. 37 38 Mandatory Provisions. - The agreements shall contain the following (b) 39 provisions:

- 40 (1) The customer may elect to pay the use tax directly to the Secretary in 41 accordance with law rather than to the seller.
- 42 (2) <u>A customer's payment of a use tax to the seller relieves the customer of liability for the use tax.</u>

_			
1	<u>(3</u>)		
2		before the due date specified in the agreement, which may not be later	
3		than 31 days after the end of a quarter or other collection period.	
4	<u>(4</u>)		
5		the due date specified in the agreement, the seller is subject to the	
6		interest and penalties provided in Article 9 of this Chapter with respect	
7		to the taxes to the same extent as if it were a retailer required to collect	
8		use taxes under this Article.	
9		tional Provisions. – The agreements may contain the following provisions:	
10	<u>(1)</u>		
11		general rate of tax.	
12	<u>(2</u>)		
13		same rate in every unit of local government in the State.	
14	<u>(3</u>)		
15		the Secretary.	
16	<u>(4</u>)	· · · ·	
17		seller will collect tax and prescribing administrative procedures and	
18		requirements."	
19			
20		PROVIDE AUTOMATIC ANNUAL INCOME TAX REDUCTIONS	
21		c. 10. G.S. 105-134.6(c)(4a) is repealed.	
22		c. 11. The Department of Revenue shall draw from collections under	
23		f Article 4 of Chapter 105 of the General Statutes for the 1996-97 fiscal year	
24	the amount needed to pay for the cost of printing and mailing new withholding tables		
25	required by this act, up to a maximum of one hundred sixteen thousand six hundred		
26	dollars (\$116	6,600) for the 1996-97 fiscal year.	
27	-		
28		PART IV. REPEAL STATE PRIVILEGE LICENSE TAXES	
29		c. 12. The following sections of Article 2 of Chapter 105 of the General	
30	Statutes are r		
31	G.S. 105		
32		moving picture films.	
33	G.S. 105		
34	G.S. 105	01	
35	G.S. 105	5 1	
36	G.S. 105	e	
37	G.S. 105	6 6	
38	G.S. 105		
39	G.S. 105		
40	G.S. 105		
41	G.S. 105		
42	G.S. 105	1	
43	G.S. 105	-55 Installing elevators and automatic sprinkler systems.	

	0 0 105 50		
1	G.S. 105-58	Fortune tellers, palmists, etc.	
2	G.S. 105-60	Day-care facilities.	
3	G.S. 105-61	Hotels, motels, tourist courts and tourist homes.	
4	G.S. 105-62	Restaurants.	
5	G.S. 105-65	Music machines.	
6	G.S. 105-65.1	Merchandising dispensers and weighing machines.	
7	G.S. 105-66.1	Electronic video games.	
8	G.S. 105-70	Packinghouses.	
9	G.S. 105-72	Persons, firms, or corporations selling certain oils.	
10	G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.	
11	G.S. 105-75.1	Municipal license tax on barbershops and beauty salons.	
12	G.S. 105-77	Tobacco warehouses.	
13	G.S. 105-80	Firearms dealers and dealers in other weapons.	
14	G.S. 105-85	Laundries.	
15	G.S. 105-86	Outdoor advertising.	
16	G.S. 105-89	Automobiles, wholesale supply dealers and service stations.	
17	G.S. 105-89.1	Motorcycle dealers.	
18	G.S. 105-90	Emigrant and employment agents.	
19	G.S. 105-91	Plumbers, heating contractors, and electricians.	
20	G.S. 105-97	Manufacturers of ice cream.	
21	G.S. 105-98	Branch or chain stores.	
22	G.S. 105-99	Wholesale distributors of motor fuels.	
23	G.S. 105-102.1	Certain cooperative associations.	
24	G.S. 105-102.5	General business license.	
25	Sec. 13. G.S.	105-33(b) reads as rewritten:	
26	"(b) If the busines	s made taxable or the privilege to be exercised under this Article	
27	is carried on at two or	more separate places, a separate State license for each place is	
28	required. For the purpose	e of this Article, a specialty market is not considered a specialty market	
29	vendor's place of business	" 	
30	Sec. 14. G.S.	105-33(d) reads as rewritten:	
31	"(d) The State lice	mse issued under G.S. 105-41, 105-42, 105-45, 105-53, 105-54,	
32		5-91 shall be and constitute a personal privilege to conduct the	
33	profession or business r	named in the State license, shall not be transferable to any other	
34	person, firm or corporat	on and shall be construed to limit the person, firm or corporation	
35		conducting the profession or business and exercising the privilege	
36	named in the State license to the county and/or city and location specified in the State		
37	license, unless otherwise provided in this Article or schedule. Other <u>A</u> license issued for a		
38	tax year for the conduct of a business at a specified location shall upon a sale or transfer		
39	of the business be deemed a sufficient license for the succeeding purchaser for the		
40	conduct of the business specified at such location for the balance of the tax year:		
41		der of a license under this schedule moves the business for which	
42		o another location, a new license may be issued to the licensee at	
43	_	alance of the license year, upon surrender of the original license	

1	for concellation and th	a normant of a fact of five dellars (\$5.00) for each license	
1	for cancellation and the payment of a fee of five dollars (\$5.00) for each license certificate reissued."		
2	Sec. 15. G.S. 105-38(g) is repealed.		
3			
4	Sec. 16. G.S. 105-109.1 reads as rewritten:		
5	"§ 105-109.1. Interest.	$c_{1} = c_{1} + c_{2} + c_{2$	
6 7	-	ecceipts levied in G.S. $105-37.1(a)$, $105-37.1(a)$ and G.S. $105-38(f)$,	
8		ax on installment paper dealers levied in G.S. 105-83(b), and the sprint publications levied in G.S. 105-102.6, shall bear interest at	
8 9	*	ler G.S. 105-241.1(i) from the time the taxes were due until the	
10	taxes are paid."	er G.S. 103-241.1(1) from the time the taxes were due until the	
10	1	153A-152 reads as rewritten:	
11	"§ 153A-152. Privilege		
12	8	y privilege license taxes on trades, occupations, professions,	
13		ses to the extent authorized by Schedule B of the Revenue Act	
15	-	I, Article 2) Article 2 of Chapter 105 of the General Statutes and	
16		neral Assembly. <u>A county may levy privilege license taxes to the</u>	
17	•	zed by the following sections of Article 2 of Chapter 105 of the	
18	General Statutes before they were repealed:		
19	G.S. 105-50	Pawnbrokers.	
20	G.S. 105-53	Peddlers, itinerant merchants, and specialty market operators.	
21	G.S. 105-55	Installing elevators and automatic sprinkler systems.	
22	G.S. 105-58	Fortune tellers, palmists, etc.	
23	G.S. 105-65	Music machines.	
24	G.S. 105-66.1	Electronic video games.	
25	<u>G.S. 105-80</u>	Firearms dealers and dealers in other weapons.	
26	<u>G.S. 105-89</u>	Automobiles, wholesale supply dealers and service stations.	
27	<u>G.S. 105-89.1</u>	Motorcycle dealers.	
28	<u>G.S. 105-90</u>	Emigrant and employment agents.	
29	<u>G.S. 105-102.5</u>	General business license."	
30		160A-211 reads as rewritten:	
31	"§ 160A-211. Privilege		
32	•	Except as otherwise provided by law, a city shall have power to	
33		taxes on all trades, occupations, professions, businesses, and	
34		within the city. A city may levy privilege license taxes on the	
35		merly taxed by the State under the following sections of Article 2	
36		eneral Statutes only to the extent the sections authorized cities to	
37		e the sections were repealed:	
38	<u>G.S. 105-36</u>	<u>Amusements – Manufacturing, selling, leasing, or distributing</u>	
39	0 0 105 2(1	moving picture films.	
40	<u>G.S. 105-36.1</u>	<u>Amusements – Outdoor theatres.</u>	
41	<u>G.S. 105-37</u> G.S. 105-41	<u>Amusements – Moving pictures – Admission.</u>	
42 43	<u>G.S. 105-41</u> <u>G.S. 105-42</u>	Attorneys-at-law and other professionals. Private detectives and investigators	
43	<u>U.S. 103-42</u>	Private detectives and investigators.	

1	<u>G.S. 105-45</u>	Collecting agencies.
2	<u>G.S. 105-46</u>	Undertakers and retail dealers in coffins.
3	<u>G.S. 105-50</u>	Pawnbrokers.
4	<u>G.S. 105-51.1</u>	<u>Alarm systems.</u>
5	<u>G.S. 105-53</u>	Peddlers, itinerant merchants, and specialty market operators.
6	<u>G.S. 105-54</u>	Contractors and construction companies.
7	<u>G.S. 105-55</u>	Installing elevators and automatic sprinkler systems.
8	<u>G.S. 105-61</u>	Hotels, motels, tourist courts and tourist homes.
9	<u>G.S. 105-62</u>	<u>Restaurants.</u>
10	<u>G.S. 105-65</u>	Music machines.
11	<u>G.S. 105-65.1</u>	Merchandising dispensers and weighing machines.
12	<u>G.S. 105-66.1</u>	Electronic video games.
13	<u>G.S. 105-72</u>	Persons, firms, or corporations selling certain oils.
14	<u>G.S. 105-74</u>	Pressing clubs, dry cleaning plants, and hat blockers.
15	<u>G.S. 105-77</u>	Tobacco warehouses.
16	<u>G.S. 105-80</u>	Firearms dealers and dealers in other weapons.
17	<u>G.S. 105-85</u>	Laundries.
18	<u>G.S. 105-86</u>	Outdoor advertising.
19	<u>G.S. 105-89</u>	Automobiles, wholesale supply dealers and service stations.
20	<u>G.S. 105-89.1</u>	Motorcycle dealers.
21	<u>G.S. 105-90</u>	Emigrant and employment agents.
22	<u>G.S. 105-91</u>	Plumbers, heating contractors, and electricians.
23	<u>G.S. 105-97</u>	Manufacturers of ice cream.
24	<u>G.S. 105-98</u>	Branch or chain stores.
25	<u>G.S. 105-99</u>	Wholesale distributors of motor fuels.
26	<u>G.S. 105-102.1</u>	Certain cooperative associations.
27	<u>G.S. 105-102.5</u>	General business license.
28	(b) Barbershop	and Salon Restriction A privilege license tax levied by a city on
29	a barbershop or a bea	uty salon may not exceed two dollars and fifty cents (\$2.50) for
30	each barber, manicuri	ist, cosmetologist, beautician, or other operator employed in the
31	barbershop or beauty s	alon."
32	Sec. 19. C	hapter 66 of the General Statutes is amended by adding a new
33	Article to read:	
34		" <u>ARTICLE 31.</u>
35	<u>''PEDDLERS, IT</u>	INERANT MERCHANTS, AND SPECIALTY MARKETS.
36	" <u>§ 66-230. Definition</u>	<u>s.</u>
37	The following defined	nitions apply in this Article:
38	(1) Itiner	ant merchant. – A person, other than a merchant with an
39	estab	lished retail store in the county, who transports an inventory of
40		s to a building, vacant lot, or other location in a county and who, at
41	that 1	ocation, displays the goods for sale and sells the goods at retail or
42		s the goods for sale at retail.

1	<u>(2)</u>	Peddler. – A person who travels from place to place with an inventory	
2	<u>(2)</u>	of goods, who sells the goods at retail or offers the goods for sale at	
3		retail, and who delivers the identical goods.	
4	<u>(3)</u>	<u>Person. – An individual, a firm, an association, a partnership, a limited</u>	
4 5	<u>(5)</u>	liability company, a corporation, a unit of government, or another group	
6		acting as a unit.	
7	<u>(4)</u>	<u>Specialty market. – A location, other than a permanent retail store,</u>	
8	<u>(+)</u>	where space is rented to others for the purpose of selling goods at retail	
9		or offering goods for sale at retail.	
10	<u>(5)</u>	<u>Specialty market operator. – A person, other than the State or a unit of</u>	
11	<u>(5)</u>	local government, who rents space, at a location other than a permanent	
12		retail store, to others for the purpose of selling goods at retail or offering	
12		goods for sale at retail.	
13	<u>(6)</u>	<u>Specialty market vendor. – A person, other than a merchant with an</u>	
15	<u>(0)</u>	established retail store in the county, who transports an inventory of	
16		goods to a specialty market and, at that location, displays the goods for	
17		sale and sells the goods at retail or offers the goods for sale at retail.	
18	"§ 66-231. If	inerant merchant and peddler must have permission of property	
19	<u>, 00 2010 10</u> 0WN6		
20		merchant or a peddler who travels from place to place by vehicle must	
21		statement signed by the owner or lessee of any property upon which the	
22	itinerant merchant or peddler offers goods for sale giving the owner's or lessee's		
23	permission to offer goods for sale upon the property of the owner or lessee. This		
24	statement must clearly state the name of the owner or lessee, the location of the premises		
25	for which the permission is granted, and the dates during which the permission is valid.		
26	The statement must be conspicuously and prominently displayed, so as to be visible for		
27	inspection by patrons of the itinerant merchant or peddler, at the places or locations at		
28	which the good	s are to be sold or offered for sale.	
29		play and possession of retail sales tax license.	
30		n Required. – An itinerant merchant must keep the merchant's retail sales	
31		spicuously and prominently displayed, so as to be visible for inspection by	
32	*	tinerant merchant at the places or locations at which the goods are to be	
33		for sale. A peddler must carry the peddler's retail sales tax license when	
34	·	ers goods for sale and must produce the license upon the request of any	
35		or local revenue agent, or law enforcement agent. A specialty market	
36		ep the retail sales tax license conspicuously and prominently displayed, so	
37		for inspection by patrons of the specialty market vendor at the places or	
38		nich the goods are to be sold or offered for sale. A specialty market	
39	operator must have its retail sales tax license, if any, available for inspection during all		
40	times that the specialty market is open and must produce it upon the request of any		
41		or local revenue agent, or law enforcement agent.	
42	(b) <u>Compliance. – The requirement that a retail sales tax license be displayed is</u>		
43	satisfied if the v	endor displays either of the following:	

1995

1 (1) <u>A copy of the license.</u>	
2 (2) Evidence that the license has been applied for and the	applicable license
3 <u>fee has been paid within 30 days before the date</u>	the license was
4 <u>required to be displayed.</u>	
5 " <u>§ 66-233. Display of identification upon request.</u>	
6 Upon the request of any customer, State or local revenue agent, or	law enforcement
7 agent, a peddler, an itinerant merchant, a specialty market operator, or a	
8 vendor must provide its name and permanent address. If the peddler, it	
9 specialty market operator, or specialty market vendor is not a corporation	
10 upon the request of any customer, State or local revenue agent, or law en	-
11 provide a valid drivers license, a special identification card issued une	
12 military identification, or a passport bearing a physical description of t	
13 reasonably describing the peddler, itinerant merchant, specialty ma	-
14 specialty market vendor. If the peddler, itinerant merchant, specialty m	-
15 specialty market vendor is a corporation, it must, upon the request of an	-
16 or local revenue agent, or law enforcement agent, give the name and re	
17 the corporation and the address of the registered office of the corporat	tion, as filed with
18 <u>the Secretary of State.</u>	
19 " <u>§ 66-234. Records of source of new merchandise.</u>	• • •
20 (a) <u>Record Required. – Each peddler, itinerant merchant, and</u>	
21 <u>vendor must keep a written record of the source of new merchandise th</u>	
22 <u>for sale. The record must be a receipt or an invoice from the pers</u>	
23 <u>merchandise to the merchant. The invoice or receipt must specific</u>	• •
24 product being sold by product name and quantity purchased and 1	
25 <u>complete business name of the seller and a description of the type o</u>	
26 <u>seller was an individual, the receipt or invoice must contain the seller</u>	
27 <u>number, its state of issuance and expiration date, and the seller's date</u>	
28 merchant must verify this information by comparing the seller's drive	
 29 invoice or receipt and signing the invoice or receipt. A special identific 30 by the Division of Motor Vehicles may be used in place of the seller's of 	
the purposes of providing and verifying information required under th	
32 seller was a corporation, the receipt or invoice must contain the corpora	
identification number, the state of incorporation, the name and	
34 <u>corporation's registered agent in this State, if any, and the corporation'</u>	
35 address.	<u>s principar office</u>
36 (b) Keeping the Record. – Each peddler, itinerant merchant, and	l specialty market
37 vendor must keep the record required by subsection (a) of this secti	
38 merchandise being offered for sale. Once the new merchandise is so	
39 must keep the record for a period of three years after the date of the sale.	
40 (c) <u>Displaying Record or Affidavit. – Upon the request of a</u>	
41 agent, a peddler, an itinerant merchant, or a specialty market vendor mu	

of the following: 42

1	(1) The record required by subsection (a) of this section of the source of
2	new merchandise the merchant offers for sale.
3	(2) An affidavit under oath or affirmation identifying the source of new
4	merchandise the merchant offers for sale, including the name and
5	address of the seller, the license number of any auctioneer seller, and the
6	date and place of purchase of the merchandise.
7	A merchant's failure to produce the requested record or an affidavit within a
8	reasonable time of request by a law enforcement agent is prima facie evidence of
9	possession of stolen property. Pending the production of the requested record or
10	affidavit, the agent may take the merchandise into custody as evidence at the time the
11	request is made. Merchandise impounded under this subsection must be disposed of in
12	accordance with G.S. 15-11.1.
13	(d) Posted Notice. – A specialty market operator must conspicuously post in plain
14	view of all specialty market vendors a sign informing all vendors that failure to produce,
15	upon the request of a law enforcement agent, either the records or affidavit required
16	under this section is prima facie evidence of possession of stolen property.
17	" <u>§ 66-235. Specialty market registration list.</u>
18	A specialty market operator must maintain a daily registration list of all specialty
19	market vendors selling or offering goods for sale at the specialty market. The registration
20	list must clearly and legibly show each specialty market vendor's name, permanent
21	address, and retail sales and use tax registration number. The specialty market operator
22	must require each specialty market vendor to exhibit a valid retail sales tax license for
23	visual inspection by the specialty market operator at the time of registration, and must
24	require each specialty market vendor to keep the retail sales tax license conspicuously
25	and prominently displayed, so as to be visible for inspection by patrons of the specialty
26	market vendor at the places or locations at which the goods are offered for sale. Each
27	daily registration list maintained pursuant to this section must be retained by the specialty
28	market operator for no less than two years and must at any time be made available upon
29	request to any law enforcement officer.
30	" <u>§ 66-236. Exemptions from Article.</u>
31	This Article does not apply to the following:
32	(1) A peddler or an itinerant merchant who meets any of the following
33	descriptions:
34	a. <u>Sells farm or nursery products produced by the merchant.</u>
35	b. <u>Sells crafts or goods made by the merchant or the merchant's</u>
36	own household personal property.
37	c. <u>Is a nonprofit charitable, educational, religious, scientific, or</u>
38	civic organization.
39	d. Sells printed material, wood for fuel, ice, seafood, meat, poultry,
40	livestock, eggs, dairy products, bread, cakes, or pies.
41	e. Is an authorized automobile dealer licensed pursuant to Chapter
42	20 of the General Statutes.

1		
1	(2)	
2		ninety percent (90%) of the peddler's sales are made but who sells some
3		goods in the county of the fixed location by peddling.
4	<u>(3)</u>	
5		a. Locates at a farmer's market.
6		b. <u>Is part of the State Fair or an agriculture fair that is licensed by</u>
7		the Commissioner of Agriculture pursuant to G.S. 106-520.3.
8		c. <u>Sells goods at an auction conducted by an auctioneer licensed</u>
9		pursuant to Chapter 85B of the General Statutes.
10	<u>(4)</u>	
11		G.S. 25A-42, or who complies with the requirements of G.S. 14-401.13.
12		Lisdemeanor violations.
13		iss 1 Misdemeanors. – A person who does any of the following commits a
14	Class 1 misde	
15	<u>(1)</u>	
16		<u>by G.S. 66-234.</u>
17	<u>(2)</u>	
18	<u>(3)</u>	1 2
19		iss 3 Misdemeanors. – A person who does any of the following commits a
20	<u>Class 3 misde</u>	
21	<u>(1)</u>	
22		<u>66-235.</u>
23	<u>(2)</u>	
24		to display the retail sales tax license as required by G.S. 66-232.
25	<u>(3)</u>	If the person is a peddler or specialty market operator, fails to produce
26		the retail sales tax license as required by G.S. 66-232.
27	<u>(4)</u>	Fails to obtain the permission of the property owner as required by G.S.
28		<u>66-231.</u>
29	<u>(5)</u>	Fails to provide name, address, or identification upon request as
30		required by G.S. 66-233 or provides false information in response to the
31		<u>request.</u>
32	<u>(6)</u>	If the person is a specialty market operator, fails to maintain the daily
33		registration list as required by G.S. 66-235.
34	<u>(c)</u> <u>De</u>	fense. – Whenever satisfactory evidence is presented in any court of the fact
35	that a retail sa	ales tax license was not displayed or produced as required by G.S. 66-232 or
36	that permission	on to use property was not displayed as required by G.S. 66-231, the person
37	charged may	not be found guilty of that violation if the person produces in court a valid
38	retail sales ta	x license or valid permission, respectively, that had been issued prior to the
39	time the perso	on was charged.
40		ocal regulation not affected.
41		cle does not affect the authority of a county or city to impose additional
42		on peddlers, itinerant merchants, specialty market vendors, or specialty
43		tors by an ordinance adopted under G.S. 153A-125 or G.S. 160A-178."

1	
2	PART V. SIMPLIFY AND REDUCE INHERITANCE TAXES;
3	REPEAL GIFT TAXES
4	Sec. 20. Article 1 of Chapter 105 of the General Statutes is amended by
5	adding a new section to read:
6	" <u>§ 105-6.1. Phaseout of inheritance tax.</u>
7	When this Article imposes an inheritance tax on property transferred by a decedent
8	but no state death tax credit is allowed under section 2011 of the Code against federal
9	estate tax due on the transfer of the decedent's estate, the amount of inheritance tax is
10	reduced by the appropriate percentage in the phaseout table set out below. When this
11	Article imposes an inheritance tax on property transferred by a decedent and a state death
12	tax credit is allowed under section 2011 of the Code against federal estate tax due on the
13	transfer of the decedent's estate, the amount of inheritance tax that exceeds the maximum
14	credit for state death taxes is reduced by the appropriate percentage in the following
15	phaseout table:
16	<u>Calendar Year of</u>
17	Decedent's Death Percentage Reduction
18	<u> 1997 20% </u>
19	<u>1998</u> <u>40%</u>
20	<u>1999</u> <u>60%</u>
21	$\frac{2000}{80\%}$
22	$\frac{2001 \text{ and after}}{100\%}$
23	Sec. 21. G.S. 105-3 is amended by adding a new subdivision to read:
24	"(11) Property transferred to another when the transfer of the property is
25	exempt from federal estate and gift taxes under section 2056(b)(7) of
26	the Code because it is considered qualified terminable interest
27	property."
28	Sec. 22. G.S. 105-188 is amended by adding a new subsection to read:
29	"(j) The tax does not apply to property transferred to another when the transfer of
30	the property is exempt from federal estate and gift taxes under section 2523(f) of the
31	Code because it is considered qualified terminable interest property."
32	Sec. 23. G.S. 105-2(a) reads as rewritten:
33	"(a) A tax shall be and is hereby imposed upon the transfer of any property, real or
34	personal, or of any interest therein or income therefrom, in trust or otherwise, to persons
35	or corporations, in the following cases:
36	(1) When the transfer is from a person who dies seized of the
37	property while a resident of the State and it is made:
38 39	a. By will or by intestacy; by Burguent to a final judgment entered in a presending to equat a
39 40	b. Pursuant to a final judgment entered in a proceeding to caveat a
40 41	will; or Dursuant to a settlement agreement to which the personal
41 42	c. Pursuant to a settlement agreement, to which the personal representative is a party, that, in the determination of the
42 43	Secretary of Revenue in his sole discretion based on evidence
Ъ	Secretary of Revenue in his sole discretion based on evidence

2 3

4

5

6

7

8

9

10

11 12

13 14

15

16 17

18

19 20

21

22

23 24

25

26

27

28 29

30

31

32 33

34

35

36

37 38

39

40

41

1

presented by the personal representative, reflects the good faith, arm's-length compromise of an actual dispute between beneficiaries, heirs, or personal representatives and does not have the primary purpose of avoiding inheritance tax.

(2) When the transfer is by will or intestate laws of this or any other state of real property or goods, wares, and merchandise within this State, or of any property, real, personal, or mixed, tangible or intangible, over which the State of North Carolina has a taxing jurisdiction, including State and municipal bonds, and the decedent was a resident of the State at the time of death; when the transfer is of real property or tangible personal property within the State, or intangible personal property that has acquired a situs in this State, and the decedent was a nonresident of the State at the time of death.

(3) When the transfer of property made by a resident, or nonresident, is of real property within this State, or of goods, wares and merchandise within this State, or of any other property, real, personal, or mixed, tangible or intangible, over which the State of North Carolina has taxing jurisdiction, including State and municipal bonds, by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death, including a transfer under which the transferor has retained for his life or any period not ending before his death (i) the possession or enjoyment of, or the income from, the property or (ii) the right to designate the persons who shall possess or enjoy the property or the income therefrom. The aggregate value exceeding ten thousand dollars (\$10,000) of transfers to any one donee within a tax year by deed, grant, bargain, sale, gift, or combination thereof, made within three years prior to the death of the grantor, vendor, or donor, without an adequate valuable consideration, shall be presumed, subject to rebuttal, to have been made in contemplation of death within the meaning of this section; the first ten thousand dollars (\$10,000) in value shall be deemed not made in contemplation of death.

(4) When any person or corporation comes into possession or enjoyment, by a transfer from a resident, or from a nonresident decedent when such nonresident decedent's property consists of real property within this State or tangible personal property within the State, or intangible personal property that has acquired a situs in this State, of an estate in expectancy of any kind or character which is contingent or defeasible, transferred by any instrument taking effect after March 24, 1939.

42 43 (5) a. For purposes of this Article, the term 'general power of appointment' means a power which is exercisable in

1	favor of the decedent, his estate, his creditors, or the creditors
2	of his estate; except that:
3	1. A power to consume, invade or appropriate
4	property for the benefit of the decedent which is limited
5	by an ascertainable standard relating to the health,
6	education, support or maintenance of the decedent shall
7	not be deemed a general power of appointment.
8	2. A power of appointment which is exercisable
9	by the decedent only in conjunction with another
10	person:
11	I. If the power is not exercisable by the decedent
12	except in conjunction with the creator of the power,
13	such power shall not be deemed a general power of
14	appointment.
15	II. If the power is not exercisable by the decedent
16	except in conjunction with a person having a
17	substantial interest in the property, subject to the
18	power, which is adverse to exercise of the power in
19	favor of the decedent, such power shall not be
20	deemed a general power of appointment. For the
21	purposes of this clause a person who, after the
22	death of the decedent, may be possessed of a power
23	of appointment (with respect to the property subject
24	to the decedent's power) which he may exercise in
25	his own favor shall be deemed as having an interest
26	in the property and such interest shall be deemed
27	adverse to such exercise of the decedent's power.
28	III. If (after the application of clauses I and II) the
29	power is a general power of appointment and is
30	exercisable in favor of such other person, such
31	power shall be deemed a general power of
32	appointment only in respect of a fractional part of
33	the property subject to such power, such part to be
34	determined by dividing the value of such property
35	by the number of such persons (including the
36	decedent) in favor of whom such power is
37	exercisable.
38	IV. For purposes of clauses II and III, a power shall be
39	deemed to be exercisable in favor of a person if it is
40	exercisable in favor of such person, his estate, his
41	creditors, or the creditors of his estate.
42	b. Whenever any person shall have a general power of appointment
43	with respect to any interest in property, such person shall, for the

1 2

3

4

5

6

7 8

9

10

11 12

13 14

15

16 17

18

19 20

21

22

23 24

25

26

27

28 29

30

31

32 33

34 35

36

37 38 purposes of this Article, be deemed the owner of such interest and accordingly:

1. If in connection with any transfer of property taxable under this Article the transferor shall give to any person a general power of appointment with respect to any interest in such property, the transferor shall be deemed to have given such interest in such property to such person.

2. If any person holding a general power of appointment with respect to any interest in property shall exercise such power in favor of any other person or persons, either by will or by an appointment made in contemplation of the death of such person, or by an appointment intended to take effect in possession or enjoyment at or after such death, he shall be deemed to have made a transfer of such interest to such person or persons.

3. If any person holding a general power of appointment with respect to any interest in property shall relinquish such power by any action taken in contemplation of death or intended to take effect at or after his death, or shall die without fully exercising such power, he shall be deemed, to the extent of such relinquishment or nonexercise, to have made a transfer of such interest to the person or persons who shall benefit thereby.

(6) Neither the exercise nor the relinquishment of a special power of appointment (which shall mean any power other than a general power) with respect to an interest in property shall be deemed to constitute a transfer of such interest within the meaning of this Article. If in connection with any transfer taxable under this Article the transferor shall give to any person a special power of appointment with respect to any interest in property, he shall be deemed, for the purpose of computing the tax applicable thereto, to have given such interest in equal shares to those persons, not more than two, among the possible appointees and takers in default of appointment whom the transferor's executor or administrator may designate as transferees in the inheritance tax return, except that:

39a. If a gift tax return is filed with respect to such transfer,40the persons designated therein shall also be designated in the41inheritance tax return, and

b. The tax shall be computed according to therelationship of the donee of the power to the persons

1	designated if the possible appointees and takers in default of
2	appointment include any persons more closely related to the
3	donee of the power than to the donor, and if such computation
4	would produce a higher tax. (7) (72) Benealed by Session Laws 1985 a (5) a 1
5 6	 (7), (7a) Repealed by Session Laws, 1985, c. 656, s. 1. (8) Where the proceeds of life insurance policies are payable as
7	(8) Where the proceeds of life insurance policies are payable as provided in G.S. 105-13.
8	(9) Whenever any person or corporation comes into possession or
9	enjoyment of any real or personal property, including bonds of the
10	United States and bonds of a state or subdivision or agency thereof, at
11	or after the death of an individual and by reason of said individual's
12	having entered into a contract or other arrangement with the United
13	States, a state or any person or corporation to pay, transfer or deliver
14	said real or personal property, including bonds of the United States
15	and bonds of a state, to the person or corporation receiving the same,
16	whether said person or corporation is named in the contract or other
17	arrangement or not: Provided, that no tax shall be due or collected on
18	that portion of the real or personal property received under the
19	conditions outlined herein which the person or corporation receiving
20	the same purchased or otherwise acquired by funds or property of the
21	person or corporation receiving the same, or had acquired by a
22	completed inter vivos gift.
23	Nothing in subdivision (9) shall apply to the proceeds of life
24 25	insurance policies. (10) Upon the death of a decadent who had a qualifying income interest for
25 26	(10) Upon the death of a decedent who had a qualifying income interest for life in qualified terminable interest property whose previous transfer
20 27	was exempt from inheritance or gift taxes under G.S. 105-3(11) or G.S.
28	<u>105-188(j)</u> , the qualified terminable interest property that was
20 29	previously exempt is considered to pass from the decedent to the person
30	who is entitled to the property upon the termination of the decedent's
31	qualifying income interest for life. This subdivision does not apply to
32	an interest in qualified terminable interest property that the decedent
33	transferred to another and was not part of the decedent's qualifying
34	income interest for life.
35	However, nothing in this Article shall be construed as imposing a tax upon any
36	transfer of intangibles not having a commercial or business situs in this State, by a
37	person, or by reason of the death of a person, who was not a resident of this State at the
38	time of his death, and, if held or transferred in trust, such intangibles shall not be deemed
39	to have a commercial or business situs in this State merely because the trustee is a
40	resident or, if a corporation, is doing business in this State, unless the same be employed
41 42	in or held or used in connection with some business carried on in whole or in part in this State "
42 43	State." Sec. 24. $G \le 105.0(8)$ reads as rewritten:
43	Sec. 24. G.S. 105-9(8) reads as rewritten:

1	$\mathbb{I}(0)$ Costs of 1 $(1, 1, 1)$ durinistration not obtained on a
1	"(8) Costs of administration, including administration not claimed as a deduction on the federal income toy return filed under the Code by the
2 3	deduction on the federal income tax return filed under the Code by the
3 4	fiduciary for the decedent's estate. Costs of administration include reasonable attorneys' fees."
4 5	
	Sec. 25. Article 1 of Chapter 105 of the General Statutes is amended by
6	adding a new section to read:
7	"§ 105-23.1. Making installment payments of tax due when federal estate tax is
8 9	payable in installments. A personal representative who elects under section 6166 of the Code to make
9 10	installment payments of federal estate tax may elect to make installment payments of the
10	
11	tax imposed by this Article. An election under this section extends the time for payment
12	of the tax due in accordance with the extension elected under section 6166 of the Code.
	Payments of tax are due under this section at the same time and in the same proportion to
14	the total amount of tax due as payments of federal tax under section 6166 of the Code.
15	Acceleration of payments under section 6166 of the Code accelerates the payments due
16	under this section."
17	Sec. 26. Effective January 1, 1999, Article 6 of Chapter 105 of the General
18	Statutes is repealed.
19 20	Sec. 27. Effective January 1, 2001, Article 1 of Chapter 105 of the General
20	Statutes is repealed.
21 22	Sec. 28. Effective January 1, 2001, Chapter 105 of the General Statutes is amended by adding a new Article to read:
,,	amended by adding a new Article to read
23	" <u>ARTICLE 1A.</u>
23 24	" <u>ARTICLE 1A.</u> <u>"ESTATE TAXES.</u>
23 24 25	" <u>ARTICLE 1A.</u> <u>"ESTATE TAXES.</u> " <u>§ 105-32.1. Definitions.</u>
23 24 25 26	" <u>ARTICLE 1A.</u> <u>"ESTATE TAXES.</u> " <u>§ 105-32.1. Definitions.</u> The following definitions apply in this Article:
23 24 25 26 27	" <u>ARTICLE 1A.</u> <u>"ESTATE TAXES.</u> " <u>§ 105-32.1. Definitions.</u> <u>The following definitions apply in this Article:</u> (1) <u>Code. – Defined in G.S. 105-228.90.</u>
23 24 25 26 27 28	" <u>ARTICLE 1A.</u> "ESTATE TAXES. " <u>§ 105-32.1. Definitions.</u> The following definitions apply in this Article: (1) Code. – Defined in G.S. 105-228.90. (2) Personal representative. – The person appointed by the clerk of superior
23 24 25 26 27 28 29	"ARTICLE 1A. "ESTATE TAXES. "ESTATE TAXES. "§ 105-32.1. Definitions. The following definitions apply in this Article: (1) Code. – Defined in G.S. 105-228.90. (2) Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate
23 24 25 26 27 28 29 30	 <u>ARTICLE 1A.</u> <u>"ESTATE TAXES.</u> <u>** 105-32.1. Definitions.</u> <u>The following definitions apply in this Article:</u> <u>Code. – Defined in G.S. 105-228.90.</u> <u>Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person</u>
23 24 25 26 27 28 29 30 31	 <u>'ARTICLE 1A.</u> <u>''ESTATE TAXES.</u> <u>''ESTATE TAXES.</u> <u>''S 105-32.1. Definitions.</u> <u>The following definitions apply in this Article:</u> <u>Code. – Defined in G.S. 105-228.90.</u> <u>Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent.</u>
23 24 25 26 27 28 29 30 31 32	 <u>'ARTICLE 1A.</u> <u>''ESTATE TAXES.</u> <u>''ESTATE TAXES.</u> <u>''S 105-32.1. Definitions.</u> <u>The following definitions apply in this Article:</u> <u>Code. – Defined in G.S. 105-228.90.</u> <u>Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent.</u> <u>Secretary. – Defined in G.S. 105-228.90.</u>
 23 24 25 26 27 28 29 30 31 32 33 	 <u>'ARTICLE 1A.</u> <u>''ESTATE TAXES.</u> <u>''ESTATE tax.</u> <u>''ESTATE TAXES.</u> <u>''ESTATE TAXES.</u> <u>''ESTATE TAXES.</u> <u>'''ESTATE tax imposed in amount equal to federal state death tax credit.</u>
 23 24 25 26 27 28 29 30 31 32 33 34 	 <u>'ARTICLE 1A.</u> <u>''ESTATE TAXES.</u> <u>''S 105-32.1. Definitions.</u> <u>The following definitions apply in this Article:</u> <u>Code. – Defined in G.S. 105-228.90.</u> <u>Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent.</u> <u>Secretary. – Defined in G.S. 105-228.90.</u> <u>''S 105-32.2. Estate tax imposed in amount equal to federal state death tax credit.</u> <u>Tax. – An estate tax is imposed on the transfer of the estate of a decedent when</u>
23 24 25 26 27 28 29 30 31 32 33 34 35	 <u>'ARTICLE 1A.</u> <u>''ESTATE TAXES.</u> <u>''S 105-32.1. Definitions.</u> <u>The following definitions apply in this Article:</u> (1) Code. – Defined in G.S. 105-228.90. (2) Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent. (3) Secretary. – Defined in G.S. 105-228.90. ''S 105-32.2. Estate tax imposed in amount equal to federal state death tax credit. (a) Tax. – An estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when
 23 24 25 26 27 28 29 30 31 32 33 34 35 36 	 <u>'ARTICLE 1A.</u> <u>'ESTATE TAXES.</u> <u>'S 105-32.1. Definitions.</u> <u>The following definitions apply in this Article:</u> <u>Code. – Defined in G.S. 105-228.90.</u> <u>Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent.</u> <u>Secretary. – Defined in G.S. 105-228.90.</u> <u>'S 105-32.2. Estate tax imposed in amount equal to federal state death tax credit.</u> <u>Tax. – An estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a number of the following apply:</u>
23 24 25 26 27 28 29 30 31 32 33 34 35 36 37	 <u>'ARTICLE 1A.</u> <u>''ESTATE TAXES.</u> "<u>§ 105-32.1. Definitions.</u> The following definitions apply in this Article: (1) Code. – Defined in G.S. 105-228.90. (2) Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent. (3) Secretary. – Defined in G.S. 105-228.90. "§ 105-32.2. Estate tax imposed in amount equal to federal state death tax credit. (a) Tax. – An estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate under section 2001 of the Code and any of the following apply:
 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 	 <u>"ARTICLE 1A.</u> <u>"ESTATE TAXES.</u> "<u>§ 105-32.1. Definitions.</u> <u>The following definitions apply in this Article:</u> Code. – Defined in G.S. 105-228.90. Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent. Secretary. – Defined in G.S. 105-228.90. <u>*§ 105-32.2. Estate tax imposed in amount equal to federal state death tax credit.</u> Tax. – An estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate at death. The decedent was a resident of this State at death. The decedent was not a resident of this State at death and owned any of
 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 	 <u>"ARTICLE 1A.</u> <u>"ESTATE TAXES.</u>" <u>"S 105-32.1. Definitions.</u> The following definitions apply in this Article: (1) Code. – Defined in G.S. 105-228.90. (2) Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent. (3) Secretary. – Defined in G.S. 105-228.90. <u>*\$ 105-32.2. Estate tax imposed in amount equal to federal state death tax credit.</u> (a) Tax. – An estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate under section 2001 of the Code and any of the following apply: (1) The decedent was a resident of this State at death. (2) The decedent was not a resident of this State at death and owned any of the following:
 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 	 <u>"ARTICLE 1A.</u> <u>"ESTATE TAXES.</u>" <u>"ESTATE TAXES.</u>" <u>"ESTATE TAXES.</u>" <u>The following definitions apply in this Article:</u> <u>Code. – Defined in G.S. 105-228.90.</u> <u>Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent.</u> <u>Secretary. – Defined in G.S. 105-228.90.</u> <u>"\$105-32.2. Estate tax imposed in amount equal to federal state death tax credit.</u> <u>Tax. – An estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate at death.</u> <u>The decedent was a resident of this State at death and owned any of the following:</u>
 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 	 <u>"ARTICLE 1A.</u> <u>"ESTATE TAXES.</u>" <u>"S 105-32.1. Definitions.</u> The following definitions apply in this Article: (1) Code. – Defined in G.S. 105-228.90. (2) Personal representative. – The person appointed by the clerk of superior court under Chapter 28A of the General Statutes to administer the estate of a decedent or, if no one is appointed under that Chapter, the person required to file a federal estate tax return for the estate of the decedent. (3) Secretary. – Defined in G.S. 105-228.90. <u>*\$ 105-32.2. Estate tax imposed in amount equal to federal state death tax credit.</u> (a) Tax. – An estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate of a decedent when a federal estate tax is imposed on the transfer of the estate under section 2001 of the Code and any of the following apply: (1) The decedent was a resident of this State at death. (2) The decedent was not a resident of this State at death and owned any of the following:

1	(b) Amount. – The amount of the estate tax imposed by this section is the
2	maximum credit for state death taxes allowed under section 2011 of the Code. If
3	property in the estate is located in a state other than North Carolina, the amount of tax
4	payable is the North Carolina percentage of the credit.
5	If the decedent was a resident of this State at death, the North Carolina percentage is
6	the net value of real property in the estate that is located in North Carolina plus the net
7	value of all personal property in the estate that does not have a tax situs in another state,
8	divided by the net value of all the property in the estate. If the decedent was not a
9	resident of this State at death, the North Carolina percentage is the net value of real
10	property in the estate that is located in North Carolina plus the net value of any personal
11	property in the estate that has a tax situs in North Carolina, divided by the net value of all
12	property in the estate, unless the decedent's state of residence uses a different formula to
13	determine the North Carolina percentage. In that circumstance, the North Carolina
14	percentage is the amount determined by the formula used by the decedent's state of
15	residence.
16	The net value of property that is located in or has a tax situs in this State is its gross
17	value reduced by any debt secured by that property. The net value of all the property in
18	the estate is its gross value reduced by any debts of the estate.
19	" <u>§ 105-32.3. Liability for estate tax.</u>
20	(a) <u>Primary. – The tax imposed by this Article is payable from the assets of the</u>
21	estate. A person who receives property from an estate is liable for the amount of estate
22	tax attributable to that property.
23	(b) <u>Personal Representative. – The personal representative of an estate is liable for</u>
24	an estate tax that is not paid within two years after it was due. This liability is limited to
25	the value of the assets of the estate that were under the control of the personal
26	representative. The amount for which the personal representative is liable may be
27	recovered from the personal representative or from the surety on any bond filed by the
28	personal representative under Article 8 of Chapter 28A of the General Statutes.
29	(c) <u>Clerk of Court. – A clerk of court who allows a personal representative to</u>
30	make a final settlement of an estate without presenting one of the following is liable on
31	the clerk's bond for any estate tax due:
32	(1) An affirmation by the personal representative certifying that no tax is
33	due on the estate because this Article does not require an estate tax
34	return to be filed for that estate.
35	(2) <u>A certificate issued by the Secretary stating that the tax liability of the</u>
36	estate has been satisfied.
37	" <u>§ 105-32.4. Payment of estate tax.</u>
38	(a) Due Date. – The estate tax imposed by this Article is due when an estate tax
39	return is due. An estate tax return is due on the date a federal estate tax return is due.
40	(b) Filing Return. – An estate tax return must be filed under this Article if a federal
41	estate tax return is required. The return must be filed by the personal representative of
42	the estate on a form provided by the Secretary.

1	(c) <u>Extension</u> – An extension of time to file a federal estate tax return is an		
2	automatic extension of the time to file an estate tax return under this Article. The		
3	Secretary may, in accordance with G.S. 105-263, extend the time for paying the estate		
4	tax imposed by this Article or for filing an estate tax return.		
5	(d) Interest and Penalties. – The penalties in G.S. 105-236 apply to the failure to		
6	file an estate tax return or to pay an estate tax when due. Interest at the rate set in G.S.		
7	105-241.1 accrues on estate taxes paid after the date they are due.		
8	(e) Obtaining Amount Due. – The personal representative of an estate may sell		
9	assets in the estate to obtain money to pay the tax imposed by this Article.		
10	" <u>§ 105-32.5. Making installment payments of tax due when federal estate tax is</u>		
11	payable in installments.		
12	A personal representative who elects under section 6166 of the Code to make		
13	installment payments of federal estate tax may elect to make installment payments of the		
14	tax imposed by this Article. An election under this section extends the time for payment		
15	of the tax due in accordance with the extension elected under section 6166 of the Code.		
16	Payments of tax are due under this section at the same time and in the same proportion to		
17	the total amount of tax due as payments of federal estate tax under section 6166 of the		
18	Code. Acceleration of payments under section 6166 of the Code accelerates the		
19	payments due under this section.		
20	" <u>§ 105-32.6. Estate tax is a lien on property in the estate.</u>		
21	The tax imposed by this Article on an estate is a lien on the real property in the estate		
22	and on the proceeds of the sale of the real property in the estate. The lien is extinguished		
23	when one of the following occurs:		
24	(1) The personal representative certifies to the clerk of court that no tax is		
25	due on the estate because this Article does not require an estate tax		
26	return to be filed for that estate.		
27	(2) The Secretary issues a certificate stating that the tax liability of the		
28	estate has been satisfied.		
29	(3) For specific real property, when the Secretary issues a tax waiver for		
30	that property.		
31	(4) Ten years have elapsed since the date of the decedent's death.		
32	"§ 105-32.7. Federal determination that changes the maximum state death tax		
33	credit allowed.		
34	If the federal government corrects or otherwise determines the amount of the		
35	maximum state death tax credit allowed an estate under section 6166 of the Code, the		
36	personal representative must, within two years after being notified of the correction or		
37	final determination by the federal government, file an estate tax return with the Secretary		
38	reflecting the correct amount of tax payable under this Article. The Secretary must assess		
39	and collect any additional tax due on the estate as provided in Article 9 of this Chapter		
40	and must refund any overpayment of tax as provided in Article 9 of this Chapter. A		
41	personal representative who fails to report a federal correction or determination is subject		
42	to the penalties in G.S. 105-236 and forfeits the right of the estate to any refund due by		
43	reason of the determination.		

1	"§ 105-32.8. Generation-skipping transfer tax.	
2	(a) Tax. – A tax is imposed on a generation skipping transfer that is subject to the	
3	tax imposed by Chapter 13 of Subtitle B of the Code in the following circumstances:	
4	(1) When the original transferor is a resident of this State at the date of the	
5	original transfer. In this circumstance, the tax is the amount of the	
6	credit for State generation-skipping transfer taxes allowed under section	
7	2604 of the Code that exceeds the amount of taxes paid on the transfer	
8	to all states other than this State.	
9	(2) When the original transferor is not a resident of this State at the date of	
10	the original transfer and the transfer includes real or personal property	
11	with a situs in this State. In this circumstance, the tax is the amount of	
12	the credit for State generation-skipping transfer taxes allowed under	
13	section 2604 of the Code, reduced by an amount that bears the same	
14	ratio to the federal credit as the value of the transferred property taxable	
15	by all states other than this State bears to the gross value of the	
16	generation-skipping transfer.	
17	(b) Payment. – The tax imposed by this section is due when a return is due. A	
18	return is due the same date as the federal return for payment of the federal generation-	
19	skipping transfer tax. The tax is payable by the person who is liable for the federal	
20	generation-skipping transfer tax."	
21		
22	PART VI. EFFECTIVE DATES	
23	Sec. 29. Notwithstanding G.S. 105-163.15 and G.S. 105-163.41, no addition to	
24	tax may be made under either of those statutes for a taxable year beginning on or after	
25	January 1, 1996, and before January 1, 1997, with respect to an underpayment of	
26	individual or corporation income tax to the extent the underpayment was created or	
27	increased by this act.	
28	Sec. 30. This act does not affect the rights or liabilities of the State, a taxpayer,	
29	or another person arising under a statute amended or repealed by this act before its	
30	amendment or repeal; nor does it affect the right to any refund or credit of a tax that	
31	would otherwise have been available under the amended or repealed statute before its	
32	amendment or repeal.	
33	Sec. 31. This act becomes effective as follows:	
34	(1) Unconstitutional Tax Preferences. – Sections 1 through 4 of Part I of	
35	this act are effective for taxable years beginning on or after January 1,	
36	1996.	
37	(2) Cap on Qualified Investments. – Section 5 of Part I of this act is	
38	effective for investments made on or after January 1, 1996.	
39	(3) Subsidiary Dividend Deduction. – Section 6 of this act is effective for	
40	taxable years beginning on or after January 1, 1997.	
41	(4) Modify Qualified Business Investment Credits. – Sections 7 through 8	
42	of Part I of this act become effective for investments made on or after	
43	January 1, 1997.	

1	(5)	Voluntary Use Tax Collection Part II of this act is effective upon
2		ratification.
3	(6)	Automatic Annual Income Tax Reductions Part III of this act is
4		effective for taxable years beginning on or after January 1, 1997.
5	(7)	Repeal Privilege License Taxes. – Part IV of this act becomes effective
6		July 1, 1997.
7	(8)	Inheritance and Gift Tax Changes. – Sections 20 through 23 of Part V
8		become effective January 1, 1997, and apply to the estates of decedents
9		dying on or after that date. Sections 24 and 25 of Part V become
10		effective July 1, 1996, and apply to the estates of decedents dying on or
11		after that date. Section 26 of Part V becomes effective January 1, 1999,
12		and applies to gifts made on or after that date. Sections 27 and 28 of
13		Part V become effective January 1, 2001, and apply to the estates of
14		decedents dying on or after that date.
15	(9)	Remainder. – The remainder of this act is effective upon ratification.