

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE DRS95061-MC~~x~~-177\* (03/07)

Short Title: Propane Gas Tax Equalization Act.

(Public)

Sponsors: Senator Rouzer.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CONVERT THE SALES TAX ON CERTAIN SALES OF PROPANE GAS INTO AN EXCISE TAX.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 5H.

"Propane Gas Tax.

**"§ 105-187.70. Definitions.**

The definitions in G.S. 105-228.90 apply in this Article. In addition, the term "distributor" means a person, firm, corporation, or other business entity who sells or otherwise deals in propane gas.

**"§ 105-187.71. Tax imposed on propane gas.**

(a) Scope. – An excise tax is imposed on propane gas received by an end user for consumption in this State. This tax is imposed in lieu of a sales and use tax.

(b) Rate. – The tax rate is equal to fourteen cents (14¢) per gallon of propane gas received by an end user for consumption in this State.

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

(1) Propane gas received by a manufacturer for use in connection with the operation of the manufacturing facility. To be eligible for the exemption, a person must have a manufacturer's certificate issued under G.S. 105-164.28A. A person who uses propane gas for an unauthorized purpose is liable for any tax due on the gas.

(2) Propane gas received by a farmer to be used for any farming purpose other than preparing food, heating dwellings, and other household purposes. To be eligible for the exemption, a person must have a farmer's certificate issued under G.S. 105-164.28A. A person who uses propane gas for an unauthorized purpose is liable for any tax due on the gas.

(3) Propane gas received by an end user on the premises of the distributor if the propane gas is received in a portable container having a capacity of not more than 420 pounds of propane gas.

(4) Propane gas transported or delivered to an end user by the distributor if the propane gas is received in a portable container having a capacity of less than 33 pounds of propane gas.



(5) Propane gas that is subject to tax under Article 36D of this Chapter.

**"§ 105-187.72. Liability for the tax.**

The excise tax imposed by this section on propane gas is payable by the distributor for propane gas sold to an end user.

**"§ 105-187.73. Payment of the tax.**

(a) Payment. – The tax imposed by this Article is payable monthly. A monthly payment is due by the 20th day of the month following the calendar month in which liability for the tax accrues. The tax imposed by this Article on propane gas delivered to an end user accrues when the gas is delivered.

(b) Prepayment. – A taxpayer who is consistently liable for at least ten thousand dollars (\$10,000) of tax a month must make a monthly prepayment of the next month's tax liability. This requirement applies when the taxpayer meets the threshold and the Secretary notifies the taxpayer to make prepayments. A prepayment is due on the date a monthly payment is due. The prepayment must equal at least sixty-five percent (65%) of any of the following:

(1) The amount of tax due for the current month.

(2) The amount of tax due for the same month in the preceding year.

(3) The average monthly amount of tax due in the preceding calendar year.

(c) Return. – A return is due quarterly. A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return.

**"§ 105-187.74. Information exchange and information returns.**

(a) Distributor Information. – The Department of Agriculture must give the Secretary a list of the entities that are registered propane gas dealers and any other information available to the Department of Agriculture that the Secretary asks for in administering the tax imposed by this Article.

(b) Information Return. – The Secretary may require a distributor to report the amount of propane gas delivered in this State, the persons that received the gas, and the volume received by each person.

**"§ 105-187.75. Records and audits.**

(a) Records. – A person who is required to file a return under this Article must keep a record of all documents used to determine information provided in the return. The records must be kept for three years after the due date of the return to which the records apply.

(b) Audits. – The Secretary may audit a person who is required to file a return under this Article."

**SECTION 2.** G.S. 105-187.71(b), as enacted by Section 1 of this act, reads as rewritten:

"(b) Rate. – The tax rate is equal to ~~fourteen cents (\$0.14)~~ten and eight-tenths cents (\$0.108) per gallon of propane gas."

**SECTION 3.** G.S. 105-187.71(b), as rewritten by Section 2 of this act, reads as rewritten:

"(b) Rate. – The tax rate is equal to ~~ten and eight-tenths cents (\$0.108)~~seven and six-tenths cents (\$0.076) per gallon of propane gas."

**SECTION 4.** G.S. 105-187.71(b), as rewritten by Section 3 of this act, reads as rewritten:

"(b) Rate. – The tax rate is equal to ~~seven and six-tenths cents (\$0.076)~~four and three-tenths cents (\$0.043) per gallon of propane gas."

**SECTION 5.** G.S. 105-164.13 is amended by adding a new subdivision to read:

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

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

...

1           (44)   Piped natural gas. – This item is exempt because it is taxed under Article 5E  
2                   of this Chapter.  
3           (44a) Propane gas taxed under Article 5H of this Chapter.  
4           ...."  
5           **SECTION 6.** Sections 1, 5, and 6 of this act become effective January 1, 2012.  
6           Section 2 of this act becomes effective January 1, 2013. Section 3 of this act becomes effective  
7           January 1, 2014. Section 4 of this act becomes effective January 1, 2015.