

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 826*

Short Title: Revenue Laws Tech., Clarifying, & Admin Chngs. (Public)

Sponsors: Senators Rucho, Hartsell; Blue, Brunstetter, Clodfelter, Harrington, McKissick, Rabon, Rouzer, and Stevens.

Referred to: Finance.

May 21, 2012

A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES
TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CHANGES

SECTION 1.1. G.S. 105-130.5(b) reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

- ...
- (14) The amount by which the basis of a depreciable asset is required to be reduced under the Code for federal tax purposes because of a tax credit allowed against the corporation's federal income tax ~~liability~~ liability or because of a grant allowed under section 1603 of the American Recovery and Reinvestment Tax Act of 2009, P.L. 111-3. This deduction may be claimed only in the year in which the Code requires that the asset's basis be reduced. In computing gain or loss on the asset's disposition, this deduction shall be considered as depreciation.

...."

SECTION 1.2. G.S. 105-164.13 reads as rewritten:

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

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

...

- (11) Any of the following fuel:
- a. Motor fuel, as ~~defined in G.S. 105-449.60, taxed in Article 36C of this Chapter,~~ except motor fuel for which a refund of the per gallon excise tax is allowed under G.S. 105 449.105A or G.S. 105 449.107.
- b. Alternative fuel taxed under Article 36D of this Chapter, unless a refund of that tax is allowed under G.S. 105 449.107.

...

- (49) Installation charges when the charges are separately stated on the invoice or similar billing document given to the purchaser at the time of sale.



1 (49a) Delivery charges for delivery of direct mail if the charges are separately
2 stated on an invoice or similar billing document given to the
3 ~~purchaser-purchaser at the time of sale.~~

4"

5 **SECTION 1.3.** The title of Article 5F of Chapter 105 of the General Statutes reads
6 as rewritten:

7 "Article 5F.

8 ~~Manufacturing Fuel and Certain Machinery and Equipment."~~

9 **SECTION 1.4.** The catchline of G.S. 105-187.70, as enacted by Section 6 of S.L.
10 2011-122, reads as rewritten:

11 "**§ 105-187.70. Department comply with Article 43 of Chapter 62A of the General**
12 **Statutes.**

13 **SECTION 1.5.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

14 "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2011,~~
15 January 1, 2012, including any provisions enacted as of that date that
16 become effective either before or after that date."

17 **SECTION 1.5.(b)** This section is effective when it becomes law. Notwithstanding
18 subsection (a) of this section, any amendments to the Internal Revenue Code enacted after
19 January 1, 2011, that increase North Carolina taxable income for the 2011 taxable year become
20 effective for taxable years beginning on or after January 1, 2012.

21 **SECTION 1.6.** G.S. 105-263(a) reads as rewritten:

22 "(a) Mailed Document. —~~Section Sections 7502 and 7503~~ of the Code ~~governs-govern~~
23 when a return, report, payment, or any other document that is mailed to the Department is
24 timely filed."

25 **SECTION 1.7.** G.S. 105-277.1F(a)(1) reads as rewritten:

26 "(a) Scope. – This section applies to the following deferred tax programs:

27 (1) ~~G.S. 105-275(12)f., real property held for future transfer to government unit~~
28 ~~for conservation purposes.~~G.S. 105-275(12), real property owned by a
29 nonprofit corporation held as a protected natural area."

30 **SECTION 1.8.** G.S. 105-468 reads as rewritten:

31 "**§ 105-468. Scope of use tax.**

32 The use tax authorized by this Article is a tax at the rate of one percent (1%) of the cost
33 price of each item or article of tangible personal property that is not sold in the taxing county
34 but is used, consumed, or stored for use or consumption in the taxing county. The tax applies to
35 the same items that are subject to tax under G.S. 105-467.

36 Every retailer who is engaged in business in this State and in the taxing county and is
37 required to collect the use tax levied by G.S. 105-164.6 shall collect the one percent (1%) use
38 tax when the property is to be used, consumed, or stored in the taxing county. The use tax
39 contemplated by this section shall be levied against the purchaser, and the purchaser's liability
40 for the use tax shall be extinguished only upon payment of the use tax to the retailer, where the
41 retailer is required to collect the tax, or to the Secretary, where the retailer is not required to
42 collect the tax.

43 Where a local sales or use tax has been paid with respect to tangible personal property by
44 the ~~purchaser, either purchaser~~ in another taxing county within the State, or where a local sales
45 or use tax was due and has been paid in a taxing jurisdiction outside the State where the
46 purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to
47 this Article, the tax paid may be credited against the tax imposed under this section by a taxing
48 county upon the same property. If the amount of sales or use tax so paid is less than the amount
49 of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary
50 an amount equal to the difference between the amount so paid in the other taxing county or
51 jurisdiction and the amount due in the taxing county. The Secretary may require such proof of

1 payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax
2 levied under this Article is not subject to credit for payment of any State sales or use tax not
3 imposed for the benefit and use of counties and municipalities. No credit shall be given under
4 this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing
5 jurisdiction does not grant similar credit for sales taxes paid under this Article."

6 **SECTION 1.9.** G.S. 160A-536(e)(2) reads as rewritten:

7 "(2) The city must receive a petition signed by at least sixty percent (60%) of the
8 lot owners of the owners' association requesting the city to establish a
9 municipal service district for the purpose of paying the costs related to
10 converting private residential streets to public streets. The executive board of
11 an owners' association for which the city has received a petition under this
12 subsection may transfer street-related common elements to the city,
13 notwithstanding the provisions of either the North Carolina Planned
14 Community Act in Chapter 47F of the General ~~Statutes~~, Statutes or the
15 North Carolina Condominium Act in Chapter 47C of the General Statutes, or
16 related articles of declaration, deed covenants, or any other similar document
17 recorded with the Register of Deeds."

18 **SECTION 1.10.(a)** G.S. 20-63 reads as rewritten:

19 "(b1) **(Effective until July 1, 2016)** The following special registration plates do not have
20 to be a "First in Flight" plate as provided in subsection (b) of this section. The design of the
21 plates that are not "First in Flight" plates must be approved by the Division and the State
22 Highway Patrol for clarity and ease of identification. When the Division registers a vehicle or
23 renews the registration of a vehicle on or after July 1, 2015, the Division must send the owner a
24 replacement special license plate in a standardized format in accordance with subsection (b) of
25 this section and G.S. 20-79.4(a3).

- 26 (1) Friends of the Great Smoky Mountains National Park.
- 27 (2) Rocky Mountain Elk Foundation.
- 28 (3) Blue Ridge Parkway Foundation.
- 29 (4) Friends of the Appalachian Trail.
- 30 (5) NC Coastal Federation.
- 31 (6) In God We Trust.
- 32 (7) Stock Car Racing Theme.
- 33 (8) Buddy Pelletier Surfing Foundation.
- 34 (9) Guilford Battleground Company.
- 35 (10) National Wild Turkey Federation.
- 36 (11) North Carolina Aquarium Society.
- 37 (12) First in Forestry.
- 38 (13) North Carolina Wildlife Habitat Foundation.
- 39 (14) NC Trout Unlimited.
- 40 (15) Ducks Unlimited.
- 41 (16) Lung Cancer Research.
- 42 (17) NC State Parks.
- 43 (18) Support Our Troops.
- 44 (19) US Equine Rescue League.
- 45 (20) Fox Hunting.
- 46 (21) Back Country Horsemen of North Carolina.
- 47 (22) Hospice Care.
- 48 (23) Home Care and Hospice.
- 49 (24) NC Tennis Foundation.
- 50 (25) AIDS Awareness.
- 51 (26) Donate Life.

- 1 (27) Farmland Preservation.
- 2 (28) Travel and Tourism.
- 3 (29) Battle of Kings Mountain.
- 4 (30) NC Civil War.
- 5 (31) North Carolina Zoological Society.
- 6 (32) United States Service Academy.
- 7 (33) Carolina Raptor Center.
- 8 (34) Carolinas Credit Union Foundation.
- 9 (35) North Carolina State Flag.
- 10 (36) NC Mining.
- 11 (37) Coastal Land Trust.
- 12 (38) ARTS NC.
- 13 (39) Choose Life.
- 14 (40) North Carolina Green Industry Council.
- 15 (41) NC Horse Council.
- 16 (42) Core Sound Waterfowl Museum and Heritage Center.
- 17 (43) Mountains-to-Sea Trail, Inc."

18 **SECTION 1.10.(b)** G.S. 20-79.7(a) reads as rewritten:

19 **"§ 20-79.7. Fees for special registration plates and distribution of the fees.**

20 (a) Fees. – Upon request, the Division shall provide and issue free of charge a single
 21 Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War registration plate to a
 22 recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war each
 23 year. The preceding special registration plates are subject to the regular motor vehicle
 24 registration fees in G.S. 20-88, if the registered weight of the vehicle is greater than 6,000
 25 pounds. All other special registration plates are subject to the regular motor vehicle registration
 26 fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

27 Special Plate	Additional Fee Amount
28 American Red Cross	\$30.00
29 Animal Lovers	\$30.00
30 Arthritis Foundation	\$30.00
31 ARTS NC	\$30.00
32 Back Country Horsemen of NC	\$30.00
33 Boy Scouts of America	\$30.00
34 Brenner Children's Hospital	\$30.00
35 Carolina Raptor Center	\$30.00
36 Carolinas Credit Union Foundation	\$30.00
37 Carolinas Golf Association	\$30.00
38 Coastal Conservation Association	\$30.00
39 Coastal Land Trust	\$30.00
40 Crystal Coast	\$30.00
41 Daniel Stowe Botanical Garden	\$30.00
42 El Pueblo	\$30.00
43 Farmland Preservation	\$30.00
44 First in Forestry	\$30.00
45 Girl Scouts	\$30.00
46 Greensboro Symphony Guild	\$30.00
47 Historical Attraction	\$30.00
48 Home Care and Hospice	\$30.00
49 Home of American Golf	\$30.00
50 HOMES4NC	\$30.00
51 Hospice Care	\$30.00

1	In God We Trust	\$30.00
2	Maggie Valley Trout Festival	\$30.00
3	<u>Morgan Horse Club</u>	<u>\$30.00</u>
4	Mountains-to-Sea Trail	\$30.00
5	NC Civil War	\$30.00
6	NC Coastal Federation	\$30.00
7	NC Veterinary Medical Association	\$30.00
8	National Kidney Foundation	\$30.00
9	North Carolina 4-H Development Fund	\$30.00
10	North Carolina Emergency Management Association	\$30.00
11	North Carolina Green Industry Council	\$30.00
12	North Carolina Libraries	\$30.00
13	Outer Banks Preservation Association	\$30.00
14	Pamlico-Tar River Foundation	\$30.00
15	P.E.O. Sisterhood	\$30.00
16	Personalized	\$30.00
17	Retired Legislator	\$30.00
18	Ronald McDonald House	\$30.00
19	Share the Road	\$30.00
20	S.T.A.R.	\$30.00
21	State Attraction	\$30.00
22	Stock Car Racing Theme	\$30.00
23	Support NC Education	\$30.00
24	Support Our Troops	\$30.00
25	<u>Sustainable Fisheries</u>	<u>\$30.00</u>
26	Toastmasters Club	\$30.00
27	Topsail Island Shoreline Protection	\$30.00
28	Travel and Tourism	\$30.00
29	AIDS Awareness	\$25.00
30	Buffalo Soldiers	\$25.00
31	Choose Life	\$25.00
32	Collegiate Insignia	\$25.00
33	First in Turf	\$25.00
34	Goodness Grows	\$25.00
35	High School Insignia	\$25.00
36	Kids First	\$25.00
37	National Multiple Sclerosis Society	\$25.00
38	National Wild Turkey Federation	\$25.00
39	NC Agribusiness	\$25.00
40	NC Children's Promise	\$25.00
41	Nurses	\$25.00
42	Olympic Games	\$25.00
43	Rocky Mountain Elk Foundation	\$25.00
44	Special Olympics	\$25.00
45	Support Soccer	\$25.00
46	Surveyor Plate	\$25.00
47	The V Foundation for Cancer Research Division	\$25.00
48	University Health Systems of Eastern Carolina	\$25.00
49	Alpha Phi Alpha Fraternity	\$20.00
50	ALS Association, Jim "Catfish" Hunter Chapter	\$20.00
51	ARC of North Carolina	\$20.00

1	Audubon North Carolina	\$20.00
2	Autism Society of North Carolina	\$20.00
3	Battle of Kings Mountain	\$20.00
4	Be Active NC	\$20.00
5	Brain Injury Awareness	\$20.00
6	Breast Cancer Earlier Detection	\$20.00
7	Buddy Pelletier Surfing Foundation	\$20.00
8	Concerned Bikers Association/ABATE of North Carolina	\$20.00
9	Daughters of the American Revolution	\$20.00
10	Donate Life	\$20.00
11	Ducks Unlimited	\$20.00
12	Greyhound Friends of North Carolina	\$20.00
13	Guilford Battleground Company	\$20.00
14	Harley Owners' Group	\$20.00
15	Jaycees	\$20.00
16	Juvenile Diabetes Research Foundation	\$20.00
17	Kappa Alpha Order	\$20.00
18	Litter Prevention	\$20.00
19	March of Dimes	\$20.00
20	Morgan Horse Club	\$20.00
21	Native American	\$20.00
22	NC Fisheries Association	\$20.00
23	NC Horse Council	\$20.00
24	NC Mining	\$20.00
25	NC Tennis Foundation	\$20.00
26	NC Trout Unlimited	\$20.00
27	NC Victim Assistance	\$20.00
28	NC Wildlife Federation	\$20.00
29	NC Wildlife Habitat Foundation	\$20.00
30	NC Youth Soccer Association	\$20.00
31	North Carolina Master Gardener	\$20.00
32	Omega Psi Phi Fraternity	\$20.00
33	Phi Beta Sigma Fraternity	\$20.00
34	Piedmont Airlines	\$20.00
35	Prince Hall Mason	\$20.00
36	Save the Sea Turtles	\$20.00
37	Scenic Rivers	\$20.00
38	School Technology	\$20.00
39	SCUBA	\$20.00
40	Soil and Water Conservation	\$20.00
41	Special Forces Association	\$20.00
42	Support Public Schools	\$20.00
43	Sustainable Fisheries	\$20.00
44	US Equine Rescue League	\$20.00
45	USO of NC	\$20.00
46	Wildlife Resources	\$20.00
47	Zeta Phi Beta Sorority	\$20.00
48	Carolina Regional Volleyball Association	\$15.00
49	Carolina's Aviation Museum	\$15.00
50	Leukemia & Lymphoma Society	\$15.00
51	Lung Cancer Research	\$15.00

1	NC Beekeepers	\$15.00
2	Shag Dancing	\$15.00
3	Active Member of the National Guard	None
4	100% Disabled Veteran	None
5	Ex-Prisoner of War	None
6	Gold Star Lapel Button	None
7	Legion of Valor	None
8	Purple Heart Recipient	None
9	All Other Special Plates	\$10.00."

11 PART II. CLARIFYING AND ADMINISTRATIVE CHANGES

12 SECTION 2.1. G.S. 105-113.38 reads as rewritten:

13 "**§ 105-113.38. ~~Bond.~~ Bond or irrevocable letter of credit.**

14 The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an
 15 amount that adequately protects the State from loss if the dealer fails to pay taxes due under
 16 this Part. A bond shall be conditioned on compliance with this Part, shall be payable to the
 17 State, and shall be in the form required by the Secretary. The Secretary shall proportion a bond
 18 amount to the anticipated tax liability of the wholesale dealer or retail dealer. The Secretary
 19 shall periodically review the sufficiency of bonds required of dealers, and shall increase the
 20 amount of a required bond when the amount of the bond furnished no longer covers the
 21 anticipated tax liability of the wholesale dealer or retail dealer. The Secretary shall decrease the
 22 amount of a required bond when the Secretary determines that a smaller bond amount will
 23 adequately protect the State from loss. For purposes of this section, a bond may also include an
 24 irrevocable letter of credit."

25 SECTION 2.2.(a) G.S. 105-113.107(1a) reads as rewritten:

26 "(1a) At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction
 27 thereof, of marijuana, other than separated stems and stalks taxed under
 28 subdivision (1) of this ~~section.~~section, or synthetic cannabinoids."

29 SECTION 2.2.(b) This section becomes effective June 1, 2011.

30 SECTION 2.3. G.S. 105-120.2(c) reads as rewritten:

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

33 (1) It has no assets other than ownership interests in corporations in which it
 34 owns, directly or indirectly, more than fifty percent (50%) of the outstanding
 35 voting stock or voting capital interests.

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

40 SECTION 2.4. G.S. 105-164.3 reads as rewritten:

41 "**§ 105-164.3. Definitions.**

42 The following definitions apply in this Article:

43 ...

44 (25a) Over-the-counter drug. – A drug that can be dispensed under federal law
 45 without a prescription and is required by 21 C.F.R. § 201.66 to have a label
 46 containing a "Drug Facts" panel ~~and~~or a statement of its active ingredients.

47 ...

48 (36) Sale or selling. – The transfer for consideration of ~~title~~title, license to use or
 49 consume, or possession of tangible personal property or digital property or
 50 the performance for consideration of a service. The transfer or performance

1 may be conditional or in any manner or by any means. The term includes the
2 following:

- 3 a. Fabrication of tangible personal property for consumers by persons
4 engaged in business who furnish either directly or indirectly the
5 materials used in the fabrication work.
- 6 b. Furnishing or preparing tangible personal property consumed on the
7 premises of the person furnishing or preparing the property or
8 consumed at the place at which the property is furnished or prepared.
- 9 c. A transaction in which the possession of the property is transferred
10 but the seller retains title or security for the payment of the
11 consideration.
- 12 d. A lease or rental.
- 13 e. Transfer of a digital code.

14 ...

15 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as
16 amended as of ~~May 12, 2009~~ December 19, 2011.

17"

18 **SECTION 2.5.** G.S. 105-164.4B(a) reads as rewritten:

19 "(a) General Principles. – The following principles apply in determining where to source
20 the sale of a product. These principles apply regardless of the nature of the ~~product~~ product,
21 except as otherwise noted in this section:

- 22 (1) Over-the-counter. – When a purchaser receives a product at a business
23 location of the seller, the sale is sourced to that business location.
- 24 (2) Delivery to specified address. – When a purchaser or purchaser's donee
25 receives a product at a location specified by the purchaser and the location is
26 not a business location of the seller, the sale is sourced to the location where
27 the purchaser or the purchaser's donee receives the product.
- 28 (3) ~~Delivery address unknown. – When a seller of a product does not know the~~
29 ~~address where a product is received, the sale is sourced to the first address or~~
30 ~~location listed in this subdivision that is known to the seller:~~
 - 31 a. ~~The business or home address of the purchaser.~~
 - 32 b. ~~The billing address of the purchaser or, if the product is prepaid~~
33 ~~wireless calling service, the location associated with the mobile~~
34 ~~telephone number.~~
 - 35 e. ~~The address from which tangible personal property was shipped or~~
36 ~~from which a service was provided.~~
- 37 (4) When subdivisions (1) and (2) of this subsection do not apply, the sale is
38 sourced to the location indicated by an address for the purchaser that is
39 available from the business records of the seller that are maintained in the
40 ordinary course of the seller's business when use of this address does not
41 constitute bad faith.
- 42 (5) When subdivisions (1), (2), and (4) of this subsection do not apply, the sale
43 is sourced to the location indicated by an address for the purchaser obtained
44 during the consummation of the sale, including the address of a purchaser's
45 payment instrument, if no other address is available, when use of this
46 address does not constitute bad faith.
- 47 (6) When subdivisions (1), (2), (4), and (5) of this subsection do not apply,
48 including the circumstance in which the seller is without sufficient
49 information to apply the rules, the location will be determined based on the
50 following:
 - 51 a. Address from which tangible personal property was shipped,

1 b. Address from which the digital good or the computer software
2 delivered electronically was first available for transmission by the
3 seller, or

4 c. Address from which the service was provided."

5 **SECTION 2.6.** G.S. 105-164.7 reads as rewritten:

6 **"§ 105-164.7. Retailer to collect sales tax from purchaser as trustee for State.**

7 The sales tax imposed by this Article is intended to be passed on to the purchaser of a
8 taxable item and borne by the purchaser instead of by the retailer. A retailer must collect the tax
9 due on an item when the item is sold at retail. The tax is a debt from the purchaser to the
10 retailer until paid and is recoverable at law by the retailer in the same manner as other debts. A
11 retailer is considered to act as a trustee on behalf of the State when it collects tax from the
12 purchaser of a taxable item. The tax must be stated and charged separately on the invoices or
13 other documents of the retailer given to the purchaser, except for vending machine sales. Where
14 the sales price of a product includes the tax, a retailer must clearly display a statement
15 indicating such."

16 **SECTION 2.7.(a)** Part 2 of Article 5 of Chapter 105 of the General Statutes is
17 amended by adding the following new section:

18 **"§ 105-164.12C. Items given away by merchants.**

19 If a retailer engaged in the business of selling prepared food and drink for immediate or
20 on-premises consumption also gives prepared food or drink to its patrons or employees free of
21 charge, for the purpose of this Article, the property given away is considered sold along with
22 the property sold. If a retailer gives an item of inventory to a customer free of charge on the
23 condition that the customer purchase similar or related property, the item given away is
24 considered sold along with the item sold. In all other cases, property given away or used by any
25 retailer or wholesale merchant is not considered sold, whether or not the retailer or wholesale
26 merchant recovers its cost of the property from sales of other property."

27 **SECTION 2.7.(b)** This section becomes effective August 7, 2009.

28 **SECTION 2.8.** G.S. 105-164.14(a) reads as rewritten:

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

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

- 39 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts,
40 and accessories purchased by the applicant inside or outside this State during
41 the refund period.
- 42 (2) The purchase price of the items listed in subdivision (1) of this subsection.
- 43 (3) The sales and use taxes paid in this State on the listed items.
- 44 (4) The number of miles the applicant's motor vehicles, railroad cars,
45 locomotives, and airplanes were operated both inside and outside this State
46 during the refund period. Airplane miles are not in this State if the airplane
47 does not depart or land in this State.
- 48 (5) Any other information required by the Secretary.

49 For each applicant, the Secretary shall compute the amount to be refunded as follows. First,
50 the Secretary shall determine the ratio of mileage ratio. The numerator of the mileage ratio is
51 the number of miles the applicant operated its motor vehicles, railroad cars, locomotives, and

1 airplanes in this State during the refund ~~period to period~~. The denominator of the mileage ratio
2 is the number of miles it operated ~~them~~ all motor vehicles, railroad cars, locomotives, and
3 airplanes that the applicant owns, both inside and outside this State during the refund period.
4 Second, the Secretary shall determine the applicant's proportional liability for the refund period
5 by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1)
6 of this subsection and then multiplying the resulting product by the tax rate that would have
7 applied to the items if they had all been purchased in this State. Third, the Secretary shall
8 refund to each applicant the excess of the amount of sales and use taxes the applicant paid in
9 this State during the refund period on these items over the applicant's proportional liability for
10 the refund period."

11 **SECTION 2.9.** G.S. 105-164.27A reads as rewritten:

12 "**§ 105-164.27A. Direct pay permit.**

13 (a) General. – A general direct pay permit authorizes its holder to purchase any tangible
14 personal property, digital property, or service without paying tax to the seller and authorizes the
15 seller to not collect any tax on a sale to the permit holder. A person who purchases an item
16 under a direct pay permit issued under this subsection is liable for use tax due on the purchase.
17 The tax is payable when the property is placed in use or the service is received. A direct pay
18 permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4 on
19 electricity.

20 A person who purchases an item for use in this State whose tax status cannot be determined
21 at the time of the purchase because of one of the reasons listed below may apply to the
22 Secretary for a general direct pay permit:

- 23 (1) The place of business where the item will be used is not known at the time of
24 the purchase and a different tax consequence applies depending on where the
25 item is used.
26 (2) The manner in which the item will be used is not known at the time of the
27 purchase and one or more of the potential uses is taxable but others are not
28 taxable.

29 ...

30 (b) Telecommunications Service. – A direct pay permit for telecommunications service
31 authorizes its holder to purchase telecommunications service and ancillary service without
32 paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit
33 holder. A person who purchases these services under a direct pay permit must file a return and
34 pay the tax due monthly or quarterly to the Secretary. A direct pay permit issued under this
35 subsection does not apply to any tax other than the tax on telecommunications service and
36 ancillary service.

37 A call center that purchases telecommunications service that originates outside this State
38 and terminates in this State may apply to the Secretary for a direct pay permit for
39 telecommunications service and ancillary service. A call center is a business that is primarily
40 engaged in providing support services to customers by telephone to support products or
41 services of the business. A business is primarily engaged in providing support services by
42 telephone if at least sixty percent (60%) of its calls are incoming.

43"

44 **SECTION 2.10.** G.S. 105-187.43(b) reads a rewritten:

45 "(b) Prepayment. – A taxpayer who is consistently liable for at least ~~ten~~ twenty thousand
46 dollars ~~(\$10,000)~~ (\$20,000) of tax a month must make a monthly prepayment of the next
47 month's tax liability. This requirement applies when the taxpayer meets the threshold and the
48 Secretary notifies the taxpayer to make prepayments. A prepayment is due on the date a
49 monthly payment is due. The prepayment must equal at least sixty five percent (65%) of any of
50 the following:

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

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

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

3 **SECTION 2.11.** G.S. 143-59.1(a) reads as rewritten:

4 "(a) Ineligible Vendors. – The Secretary of Administration and other entities to which
5 this Article applies shall not contract for goods or services with either of the following:

6 (1) A vendor if the vendor or an affiliate of the vendor meets one or more of the
7 conditions of G.S. 105-164.8(b) but refuses to collect the use tax levied
8 under Article 5 of Chapter 105 of the General Statutes on its sales delivered
9 to North Carolina. ~~The~~ Upon request, the Secretary of Revenue shall provide
10 the Secretary of Administration ~~periodically with a list of vendors to which~~
11 ~~or another entity to which this Article applies verification whether this~~
12 ~~section applies.~~ applies to a specific entity.

13 (2) A vendor if the vendor or an affiliate of the vendor incorporates or
14 reincorporates in a tax haven country after December 31, 2001, but the
15 United States is the principal market for the public trading of the stock of the
16 corporation incorporated in the tax haven country."

17 **SECTION 2.12.** G.S. 105-241(b)(2a) reads as rewritten:

18 "(2a) Motor fuel taxes. – A taxpayer that ~~is required to file~~ files an electronic
19 return under Subchapter V of this Chapter or Article 3 of Chapter 119 of the
20 General Statutes must pay the tax by electronic funds transfer."

21 **SECTION 2.13.** Effective when it becomes law, but expiring at the same time as
22 Section 1 of S.L. 2011-296 expires (currently July 1, 2013), G.S. 161-10(a), as rewritten by
23 S.L. 2011-296, reads as rewritten:

24 "**§ 161-10. Uniform fees of registers of deeds.**

25 (a) Except as otherwise provided in this Article, all fees collected under this section
26 shall be deposited into the county general fund. While performing the duties of the office, the
27 register of deeds shall collect the following fees which shall be uniform throughout the State:

28 (1) Instruments in General. – For registering or filing any instrument for which
29 no other provision is made by this section, the fee shall be twenty-six dollars
30 (\$26.00) for the first 15 pages plus four dollars (\$4.00) for each additional
31 page or fraction thereof.

32 ~~When a subsequent instrument, as defined in G.S. 161-14.1(a)(3), is~~
33 ~~presented for registration with reference to more than one original~~
34 ~~instrument for which recording data are required to be indexed pursuant to~~
35 ~~G.S. 161-14.1(b), the fee shall be an additional twenty five dollars (\$25.00)~~
36 ~~for each additional reference. For any instrument that assigns more than one~~
37 ~~security instrument as defined in G.S. 45-36.4(18) by reference to previously~~
38 ~~recorded instrument recording data that are required to be indexed pursuant~~
39 ~~to G.S. 161-14.1(b), the fee shall be an additional ten dollars (\$10.00) for~~
40 ~~each additional reference.~~

41 When a document is presented for registration that consists of multiple
42 instruments, the fee shall be an additional ten dollars (\$10.00) for each
43 additional instrument. A document consists of multiple instruments when it
44 contains two or more instruments with different legal consequences or
45 intent, each of which is separately executed and acknowledged and could be
46 recorded alone.

47 "...."

48 **SECTION 2.14.(a)** G.S. 45-102(6) reads as rewritten:

49 "(6) The address, telephone number, and other contact information for the
50 ~~consumer complaint section~~ State Home Foreclosure Prevention Project of
51 ~~the Housing Finance Agency. Office of Commissioner of Banks, or,~~

1 alternatively, if the loan is serviced by a credit union, the address, telephone
2 number, and other contact information for the consumer complaint section of
3 the Credit Union Division."

4 **SECTION 2.14.(b)** G.S. 45-103(a) reads as rewritten:

5 "(a) Within three business days of mailing the notice required by G.S. 45-102, the
6 mortgage servicer shall file certain information with the Administrative Office of the Courts.
7 The filing shall be in an electronic format, as designated by the Administrative Office of the
8 Courts, and shall contain the name and address of the borrower, the due date of the last
9 scheduled payment made by the borrower, and the date the notice was mailed to the borrower.
10 The Administrative Office of the Courts shall establish an internal database to track
11 information required by this section. The ~~Commissioner of Banks~~ Housing Finance Agency
12 shall design and develop the State Home Foreclosure Prevention Project database, in
13 consultation with the Administrative Office of the Courts. Only the Administrative Office of
14 the Courts, ~~the Office of Commissioner of Banks~~, the Housing Finance Agency, and the clerk
15 of court as provided by G.S. 45-107 shall have access to the database."

16 **SECTION 2.14.(c)** G.S. 45-104 reads as rewritten:

17 **"§ 45-104. State Home Foreclosure Prevention Project and Fund.**

18 (a) ~~The Commissioner of Banks is authorized to establish the State Home Foreclosure~~
19 ~~Prevention Project.~~ The purpose of the State Home Foreclosure Prevention Project is to seek
20 solutions to avoid foreclosures for home loans. ~~In developing the Project, the Commissioner~~
21 ~~The Project~~ may include input from HUD-approved housing counselors, community
22 organizations, the Credit Union Division and other State agencies, mortgage lenders, mortgage
23 servicers, and other partners. The Housing Finance Agency shall administer the Project.

24 (b) There is established a State Home Foreclosure Prevention Trust Fund to be managed
25 and maintained by the Housing Finance Agency. The funds shall be held separate from any
26 other funds received by ~~either the Office of the Commissioner of Banks or the Housing Finance~~
27 ~~Agency~~ in trust for the operation of the State Home Foreclosure Prevention Project.

28 (c) Upon the filing of the information required under G.S. 45-103, the mortgage
29 servicer shall pay a fee of seventy-five dollars (\$75.00) to the State Home Foreclosure
30 Prevention Trust Fund. The fee shall not be charged more than once for a home loan covered
31 by this act. The ~~Office of the Commissioner of Banks~~ Housing Finance Agency shall collect the
32 fee. Upon receipt of the fee the Housing Finance Agency ~~Commissioner~~ shall deposit the funds
33 ~~into a separate account. The funds shall be transferred no less than monthly~~ into the State Home
34 Foreclosure Prevention Trust Fund. The Housing Finance Agency shall manage the State Home
35 Foreclosure Prevention Trust Fund.

36 (d) The Housing Finance Agency shall use funds from the State Home Foreclosure
37 Prevention Trust Fund to compensate performance-based service contracts or other contracts
38 and grants necessary to implement the purposes of this act in the following manner:

- 39 (1) An amount, not to exceed the greater of two million two hundred thousand
40 dollars (\$2,200,000) or thirty percent (30%) of the funds per year, to cover
41 the administrative costs of the operation of the program by ~~the Office of the~~
42 ~~Commissioner of Banks~~ and the Housing Finance Agency, including
43 managing on behalf of the Administrative Office of the Courts the database
44 identified in G.S. 45-103, expenses associated with informing homeowners
45 of State resources available for foreclosure prevention, expenses associated
46 with connecting homeowners to available resources, and assistance to
47 homeowners and counselors in communicating with mortgage servicers.
- 48 (2) An amount, not to exceed the greater of three million four hundred thousand
49 dollars (\$3,400,000) or forty percent (40%) per year, to make grants to or
50 reimburse nonprofit housing counseling agencies for providing foreclosure

1 prevention counseling services to homeowners involved in the State Home
2 Foreclosure Prevention Project.

3 (3) An amount, not to exceed thirty percent (30%) of the total funds collected
4 per year, to make grants to or reimburse nonprofit legal service providers for
5 services rendered on behalf of homeowners in danger of defaulting on a
6 home loan to avoid foreclosure, limited to legal representation such as
7 negotiation of loan modifications or other loan work-out solutions,
8 defending homeowners in foreclosure or representing homeowners in
9 bankruptcy proceedings, and research and counsel to homeowners regarding
10 the status of their home loans.

11 (4) Any funds remaining in the State Home Foreclosure Prevention Trust Fund
12 as of June 30, 2011, and any funds remaining in the State Home Foreclosure
13 Prevention Trust Fund upon the expiration of each subsequent fiscal year
14 shall be directed to the North Carolina Housing Trust Fund.

15 (e) The Housing Finance Agency shall have the discretion to enter into an agreement to
16 administer funds under subdivisions (2) and (3) of subsection (d) of this section in a manner
17 that complements or supplements other State and federal programs directed to prevent
18 foreclosures for homeowners participating in the State Home Foreclosure Prevention Project."

19 **SECTION 2.14.(d)** G.S. 45-105 reads as rewritten:

20 "**§ 45-105. Extension of foreclosure process.**

21 The ~~Commissioner of Banks upon referral from the~~ Housing Finance Agency shall review
22 information provided in the database created by G.S. 45-103 to determine which home loans
23 are appropriate for efforts to avoid foreclosure. If the ~~Commissioner~~ Housing Finance Agency
24 reasonably believes, based on a full review of the loan information, the mortgage servicer's loss
25 mitigation efforts, the borrower's capacity and interest in staying in the home, and other
26 appropriate factors, that further efforts by the State Home Foreclosure Prevention Project offer
27 a reasonable prospect to avoid foreclosure on primary residences, the ~~Commissioner~~ Executive
28 Director of the Housing Finance Agency shall have the authority to extend one time under this
29 Article the allowable filing date for any foreclosure proceeding on a primary residence by up to
30 30 days beyond the earliest filing date established by the pre-foreclosure notice. If the
31 ~~Commissioner~~ Executive Director of the Housing Finance Agency makes the determination
32 that a loan is subject to this section, the ~~Commissioner~~ Housing Finance Agency shall notify
33 the borrower, mortgage servicer, and the Administrative Office of the Courts. ~~If the mortgage~~
34 ~~servicer is a state or federally chartered credit union, the Commissioner shall also notify the~~
35 ~~Administrator of the Credit Union Division of the determination."~~

36 **SECTION 2.14.(e)** G.S. 45-106 reads as rewritten:

37 "**§ 45-106. Use and privacy of records.**

38 The data provided to the Administrative Office of the Courts pursuant to G.S. 45-103 shall
39 be exclusively for the use and purposes of the State Home Foreclosure Prevention Project
40 developed by the Commissioner of Banks and administered by the Housing Finance Agency in
41 accordance with G.S. 45-104. The information provided to the database is not a public record,
42 except that a mortgage lender and a mortgage servicer shall have access to the information
43 submitted only with regard to its own loans. ~~Any notice provided by the Commissioner to the~~
44 ~~Administrator of the Credit Union Division under G.S. 45-105 is not a public record.~~ Provision
45 of information to the Administrative Office of the Courts for use by the State Home
46 Foreclosure Prevention Project shall not be considered a violation of G.S. 53B-8. A mortgage
47 servicer shall be held harmless for any alleged breach of privacy rights of the borrower with
48 respect to the information the mortgage servicer provides in accordance with this Article."

49 **SECTION 2.14.(f)** Section 5 of S.L. 2008-226 reads as rewritten:

50 "**SECTION 5.** The ~~Office of the Commissioner of Banks~~ Housing Finance Agency shall
51 report to the General Assembly describing the operation of the program established by this act

1 not later than May 1 of each year until the funds are completely disbursed from the ~~reserve-~~
2 State Home Foreclosure Prevention Trust Fund. Information in the report shall be presented in
3 aggregate form and may include the number of clients helped, the effectiveness of the funds in
4 preventing home foreclosure, recommendations for further efforts needed to reduce
5 foreclosures, and provide any other aggregated information the ~~Commissioner~~-Housing Finance
6 Agency determines is pertinent or that the General Assembly requests."

7 **SECTION 2.14.(g)** Section 6 of S.L. 2008-226, as amended by Section 9 of S.L.
8 2010-168, reads as rewritten:

9 "SECTION 6. Section 4 of this act becomes effective July 1, 2008. Sections 1, 2, 3, and 5
10 become effective November 1, 2008, and ~~expire May 31, 2013.~~ 2008. The remainder of this act
11 is effective when it becomes law."

12 **SECTION 2.14.(h)** This section becomes effective December 1, 2012. The North
13 Carolina Housing Finance Agency shall assume the responsibilities designated in this section
14 for operation of the State Home Foreclosure Prevention Project no later than December 31,
15 2012.

16 17 **PART III. MOTOR VEHICLE/PROPERTY TAX CHANGES**

18 **SECTION 3.1.** G.S. 105-321(f) reads as rewritten:

19 "(f) Minimal Taxes. – Notwithstanding the provisions of G.S. 105-380, the governing
20 body of a taxing unit that collects its own taxes may, by resolution, direct its assessor and tax
21 collector not to collect minimal taxes charged on the tax records and receipts. Minimal taxes
22 are the combined taxes and fees of the taxing unit and any other units for which it collects
23 taxes, due on a tax receipt prepared pursuant to G.S. 105-320 ~~or on a tax notice prepared~~
24 ~~pursuant to G.S. 105-330.5~~, in a total original principal amount that does not exceed an amount,
25 up to five dollars (\$5.00), set by the governing body. The amount set by the governing body
26 should be the estimated cost to the taxing unit of billing the taxpayer for the amounts due on a
27 tax receipt or tax notice. Upon adoption of a resolution pursuant to this subsection, the tax
28 collector shall not bill the taxpayer for, or otherwise collect, minimal taxes but shall keep a
29 record of all minimal taxes by receipt number and amount and shall make a report of the
30 amount of these taxes to the governing body at the time of the settlement. These minimal taxes
31 shall not be a lien on the taxpayer's real property and shall not be collectible under Article 26 of
32 this Subchapter. A resolution adopted pursuant to this subsection must be adopted on or before
33 June 15 preceding the first taxable year to which it applies and remains in effect until amended
34 or repealed by resolution of the taxing unit. A resolution adopted pursuant to this subsection
35 shall not apply to taxes on registered motor vehicles."

36 **SECTION 3.2.** G.S. 105-330.2 reads as rewritten:

37 "**§ 105-330.2. (Effective July 1, 2013 – See Editor's note) Appraisal, ownership, and situs.**

38 ...

39 (b1) Valuation Appeal. – The owner of a classified motor vehicle may appeal the
40 appraised value ~~or taxability~~ of the vehicle by filing a request for appeal with the assessor
41 within 30 days of the date taxes are due on the vehicle under G.S. 105-330.4. An owner who
42 appeals the appraised value ~~or taxability~~ of a classified motor vehicle must pay the tax on the
43 vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

44 The combined tax and registration notice or tax receipt for a classified motor vehicle must
45 explain the right to appeal the appraised value ~~and taxability~~ of the vehicle. A lessee of a
46 vehicle that is required by the terms of the lease to pay the tax on the vehicle is considered the
47 owner of the vehicle for purposes of filing an appeal under this subsection. Appeals filed under
48 this subsection shall proceed in the manner provided by G.S. 105-312(d).

49 (b2) Exemption or Exclusion Appeal. – The owner of a classified motor vehicle may
50 appeal the vehicle's eligibility for an exemption or exclusion by filing a request for appeal with
51 the assessor within 30 days of the assessor's initial decision on the exemption or exclusion

1 application filed by the owner pursuant to G.S. 105-330.3(b). Appeals filed under this
2 subsection shall proceed in the manner provided by G.S. 105-312(d).

3"

4 **SECTION 3.3.** G.S. 105-330.3 reads as rewritten:

5 "**§ 105-330.3. (Effective July 1, 2013 – See Editor's note) Listing requirements for**
6 **classified motor vehicles; application for exempt status.**

7 ...
8 (a1) Unregistered Vehicles. – The owner of an unregistered classified motor vehicle
9 must list the vehicle for taxes by filing an abstract with the assessor of the county in which the
10 vehicle is located on or before January 31 following the date the owner acquired the
11 unregistered vehicle or, in the case of a registration that is not renewed, January 31 following
12 the date the registration expires, and on or before January 31 of each succeeding year that the
13 vehicle is unregistered. If a classified motor vehicle required to be listed pursuant to this
14 subsection is registered ~~during the calendar~~ before the end of the fiscal year in for which it was
15 ~~listed, the vehicle is taxed for the fiscal year that opens in the calendar year of listing as an~~
16 ~~unregistered vehicle.~~ required to be listed, the following applies:

17 (1) The vehicle is taxed as a registered vehicle, and the tax assessed pursuant to
18 this subsection for the fiscal year in which the vehicle was required to be
19 listed shall be released and/or refunded.

20 (2) For any months for which the vehicle was not taxed between the date the
21 registration expires and the start of the current registered vehicle tax year,
22 the vehicle is taxed as an unregistered vehicle as follows:

23 a. The value of the motor vehicle is determined as of January 1 of the
24 year in which the registration of the motor vehicle expires.

25 b. In computing the taxes, the assessor must use the tax rates and any
26 additional motor vehicle taxes of the various taxing units in effect on
27 the date the taxes are computed.

28 c. The tax on the motor vehicle is the product of a fraction and the
29 number of months for which the vehicle was not taxed between the
30 date the registration expires and the start of the current registered
31 vehicle tax year. The numerator of the fraction is the product of the
32 appraised value of the motor vehicle and the tax rate of the various
33 taxing units. The denominator of the fraction is 12.

34 d. Interest accrues on unpaid taxes for these unregistered classified
35 motor vehicles at the rate of five percent (5%) for the remainder of
36 the month following the month the taxes are due. Interest accrues at
37 the rate of three-fourths percent (3/4%) for each following month
38 until the taxes are paid, unless the notice is prepared after the date the
39 taxes are due. In that circumstance, the interest accrues beginning the
40 second month following the date of the notice until the taxes are
41 paid.

42 e. For any months between the date the registration expires and the start
43 of the current registered vehicle tax year that the vehicle is taxed as
44 an unregistered vehicle pursuant to G.S. 105-312, the vehicle is not
45 taxed as provided in this subsection.

46 (3) A vehicle required to be listed pursuant to this subsection that is not listed by
47 January 31 and is not registered before the end of the fiscal year for which it
48 was required to be listed is subject to discovery pursuant to
49 G.S. 105-312. ~~G.S. 105-312, unless the vehicle has been taxed as a registered~~
50 ~~vehicle for the current year.~~

1 (b) Exemption or Exclusion. – The owner of a classified motor vehicle who claims an
2 exemption or exclusion from tax under this Subchapter has the burden of establishing that the
3 vehicle is entitled to the exemption or exclusion. The owner may establish prima facie
4 entitlement to exemption or exclusion of the classified motor vehicle by filing an application
5 for exempt status with the ~~assessor~~-assessor within 30 days of the date taxes on the vehicle are
6 due. When an approved application is on file, the assessor must omit from the tax records the
7 classified motor vehicles described in the application. An application is not required for
8 vehicles qualifying for the exemptions or exclusions listed in G.S. 105 282.1(a)(1). The
9 remaining provisions of G.S. 105 282.1 do not apply to classified motor vehicles.

10"

11 **SECTION 3.4.** G.S. 105-330.4 reads as rewritten:

12 "§ **105-330.4.** (Effective July 1, 2013 – See Editor's note) **Due date, interest, and**
13 **enforcement remedies.**

14 ...

15 (c) Remedies. – The enforcement remedies in this Subchapter apply to unpaid taxes on
16 an unregistered classified motor vehicle. The enforcement remedies in this Subchapter do not
17 apply to unpaid taxes on a registered classified motor ~~vehicle~~-vehicle for which the tax year
18 begins on or after August 1, 2013.

19 (d) Tax payments submitted by mail are deemed to be received as of the date shown on
20 the postmark affixed by the United States Postal Service. If no date is shown on the postmark
21 or if the postmark is not affixed by the United States Postal Service, the tax payment is deemed
22 to be received when the payment is received ~~in the office of the tax collector~~-by the collecting
23 authority. In any dispute arising under this subsection, the burden of proof is on the taxpayer to
24 show that the payment was timely made."

25 **SECTION 3.5.** G.S. 105-330.5(e) is repealed.

26 **SECTION 3.6.** Effective July 1, 2011, Section 13 of S.L. 2005-294, as amended by
27 Section 31.5 of S.L. 2006-259, Section 22(b) of S.L. 2007-527, and Section 65 of S.L.
28 2008-134, reads as rewritten:

29 "**SECTION 13.** Sections 4 and 8 of this act become effective January 1, 2006. Sections 1,
30 2, 3, 5, 6, 7, 10 and 11 of this act become effective July 1, ~~2011~~,2013, or when the Division of
31 Motor Vehicles of the Department of Transportation and the Department of Revenue certify
32 that the integrated computer system for registration renewal and property tax collection for
33 motor vehicles is in operation, whichever occurs first. Sections 12 and 13 of this act are
34 effective when they become law. Nothing in this act shall require the General Assembly to
35 appropriate funds to implement it for the biennium ending June 30, 2007."

36
37 **PART IV. EFFECTIVE DATE**

38 **SECTION 4.1.** Except as otherwise provided, this act is effective when it becomes
39 law.