

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

**SESSION LAW 2015-6  
HOUSE BILL 41**

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO VARIOUS REVENUE LAWS, AS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

**PART II. REVENUE LAWS TECHNICAL, ADMINISTRATIVE, AND CLARIFYING CHANGES**

**SECTION 2.1.(a)** Section 7.2(a) of S.L. 2014-3 reads as rewritten:

**"SECTION 7.2.(a)** This act shall not be construed to affect the interpretation of any statute that is the subject of a State tax audit ~~pending as of the effective date of this act for taxable years beginning before January 1, 2015,~~ or litigation that is a direct result of such audit."

**SECTION 2.1.(b)** Section 7.3 of S.L. 2014-3 reads as rewritten:

**"SECTION 7.3.** This Part becomes effective January 1, 2015, and applies to withdrawals of items from inventory for contracts entered into on or after that date, sales on or after that ~~date~~date, and contracts entered into on or after that date."

**SECTION 2.2.(a)** Section 8.1(c) of S.L. 2014-3 reads as rewritten:

**"SECTION 8.1.(c)** With respect to the change in this section regarding the rental of a private residence, cottage, or similar accommodation that is rented for fewer than 15 days in a calendar year and that is listed with a real estate broker or agent, the following provisions apply:

(1) A retailer is ~~not~~ liable for an overcollection ~~or undercollection~~ of sales tax or occupancy tax for the rental of such an accommodation that is occupied or available to be occupied for nights beginning June 14, 2012, and ending June 30, 2014, and must remit the tax collected.

(2) A retailer is not liable for an undercollection of sales tax or occupancy tax for the rental of such an accommodation that is occupied or available to be occupied for nights beginning June 1, 2014, and ending June 30, 2014, if the retailer has made a good-faith effort to comply with the law and collect the proper amount of tax and has, due to the change under this section, overcollected or undercollected the amount of sales tax or occupancy tax that is due. This subsection applies only to the period beginning June 14, 2012, and ending July 1, 2014.~~tax."~~

**SECTION 2.2.(b)** This section becomes effective June 1, 2014.

**SECTION 2.3.** Section 14.26 of S.L. 2014-3 is repealed.

**SECTION 2.4.(a)** The purpose of this section is to clarify the intent of the 2013 Session of the General Assembly that the Utilities Commission must adjust the rate for sales of electricity, piped natural gas, and water and wastewater services to reflect all of the tax changes as enacted in S.L. 2013-316.

**SECTION 2.4.(b)** Section 4.2(a) of S.L. 2013-316 reads as rewritten:

**"SECTION 4.2.(a)** ~~Pursuant to G.S. 62-31 and G.S. 62-32, the~~ The Utilities Commission must adjust the rate set for the following utilities:

(1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under ~~G.S. 105-122 and for G.S. 105-122,~~ the increase in the rate of tax imposed on sales of electricity under ~~G.S. 105-164.4~~G.S. 105-164.4, and the reduction in the corporate income tax rate imposed under G.S. 105-130.3.



- (2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), ~~and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4, G.S. 105-164.4, and the reduction in the corporate income tax rate imposed under G.S. 105-130.3.~~
- (3) Public water and wastewater companies to reflect the repeal of G.S. 105-116 and the resulting liability of public water and wastewater companies under G.S. 105-122, and the reduction in the corporate income tax rate imposed under G.S. 105-130.3."

**SECTION 2.4.(c)** The Utilities Commission must order a utility to add interest to money refunded to its customers for refunds resulting from the reduction of the corporate income tax rate effective for taxable years beginning on or after January 1, 2014. Refunds subject to interest shall not include any amounts to be refunded arising from excess deferred income taxes due to the reduction in the corporate income tax rate effective for taxable years beginning on or after January 1, 2014. The interest rate applied to the refund must be set in accordance with G.S. 62-130.

**SECTION 2.4.(d)** Subsection (b) of this section is effective January 1, 2014. The remainder of this section is effective when it becomes law and applies to refunds issued on or after that date unless a utility has implemented rate changes on or before January 1, 2015, to effectuate the refunds.

**SECTION 2.5.(a)** G.S. 105-113.35(d) reads as rewritten:

"(d) **Manufacturer's Option.** – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. A manufacturer who ships vapor products to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the vapor products shipped to either a wholesale dealer or retail dealer. Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.

Permission granted under this subsection to a manufacturer to be relieved of paying the tax imposed by this section applies to an integrated wholesale dealer with whom the manufacturer is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with whom it is an affiliate when the manufacturer applies to the Secretary for permission to be relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the manufacturer after the Secretary has given the manufacturer permission to be relieved of paying the tax.

If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products other than cigarettes and the person is granted permission under G.S. 105-113.10 to be relieved of paying the cigarette excise tax, the permission applies to the tax imposed by this section on tobacco products other than cigarettes. A cigarette manufacturer who becomes a wholesale dealer after receiving permission to be relieved of the cigarette excise tax must notify the Secretary of the permission received under G.S. 105-113.10 when applying for a license as a wholesale dealer."

**SECTION 2.5.(b)** This section becomes effective June 1, 2015.

**SECTION 2.6.** G.S. 105-129.16A reads as rewritten:

**"§ 105-129.16A. Credit for investing in renewable energy property.**

(a) **Credit.** – ~~If a taxpayer that has constructed, purchased, or leased renewable energy property places it in service in this State during the taxable year, the taxpayer is allowed a credit equal to thirty five percent (35%) of the cost of the property. A taxpayer that has constructed, purchased, or leased renewable energy property is allowed a credit equal to thirty-five percent (35%) of the cost of the property if the property is placed in service in this State during the taxable year.~~ In the case of renewable energy property that serves a nonbusiness purpose, the credit must be taken for the taxable year in which the property is placed in service. For all other renewable energy property, the entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in five equal installments beginning with the taxable year in which the property is placed in service. Upon

request of a taxpayer that leases renewable energy property, the lessor of the property must give the taxpayer a statement that describes the renewable energy property and states the cost of the property. No credit is allowed under this section to the extent the cost of the renewable energy property was provided by public funds. For the purposes of this section, "public funds" does not include grants made under section 1603 of the American Recovery and Reinvestment Tax Act of 2009.

...."

**SECTION 2.7.** Section 1.1(a) of S.L. 2014-3 is rewritten to read:

"**SECTION 1.1.(a)** G.S. 105-130.5(b), as amended by Section 14.3 of this act, reads as rewritten:

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

- ...
- (4) ~~Losses in the nature of~~ Any unused portion of a net economic loss as allowed under G.S. 105-130.8A(e). losses sustained by the corporation in any or all of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A corporation required to allocate and apportion its net income under the provisions of G.S. 105-130.4 shall deduct its allocable and apportionable net economic loss only from total income allocable and apportionable to this State pursuant to the provisions of G.S. 105-130.8. This subdivision expires for taxable years beginning on or after January 1, 2030.
- (4a) A State net loss as allowed under G.S. 105-130.8A. A corporation may deduct its allocable and apportionable State net loss only from total income allocable and apportionable to this State.

...."

**SECTION 2.8.(a)** G.S. 105-134.6A(h) reads as rewritten:

"(h) ~~Definitions. – For purposes of this section, a "transferor" is an individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor"~~ The following definitions apply in this section:

- (1) Owner in a transferor. – One or more of the following of a transferor:
- a. is a ~~A~~ partner, shareholder, member, or beneficiary ~~or member.~~
  - b. A beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter of a transferor. ~~Chapter.~~
- (2) Transferor. – An individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries."

**SECTION 2.8.(b)** G.S. 105-153.6(h) reads as rewritten:

"(h) ~~Definitions. – For purposes of this section, a "transferor" is an individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is~~ The following definitions apply in this section:

- (1) Owner in a transferor. – One or more of the following of a transferor:
- a. ~~a~~ ~~A~~ partner, shareholder, member, or member.
  - b. ~~or~~ ~~A~~ beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter of a transferor.
- (2) Transferor. – An individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries."

**SECTION 2.8.(c)** Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2013. Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2014. The remainder of this section is effective when it becomes law.

**SECTION 2.9.(a)** Notwithstanding G.S. 105-163.15, the Secretary of Revenue may not impose interest with respect to an underpayment of income tax to the extent the underpayment was created or increased by the changes made in Section 2.2 of S.L. 2014-3. Notwithstanding G.S. 105-163.8, a withholding agent is not liable for the amount of tax the agent fails to withhold to the extent the amount of tax not withheld was created or increased by the changes made in Section 2.2 of S.L. 2014-3.

**SECTION 2.9.(b)** This section is effective when it becomes law and applies to taxable years beginning on or after January 1, 2014, and before January 1, 2015, and to payroll periods beginning on or after January 1, 2014, and before January 1, 2015.

**SECTION 2.10.** G.S. 105-164.3(35) reads as rewritten:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

- ...
- (35) Retailer. – ~~A person engaged in business of any of the following:~~ Any of the following persons:
- a. ~~Making~~ A person engaged in business of making sales at retail, offering to make sales at retail, or soliciting sales at retail of tangible personal property, digital property, or services for storage, use, or consumption in this State. When the Secretary finds it necessary for the efficient administration of this Article to regard any sales representatives, solicitors, representatives, consignees, peddlers, or truckers as agents of the dealers, distributors, consignors, supervisors, employers, or persons under whom they operate or from whom they obtain the items sold by them regardless of whether they are making sales on their own behalf or on behalf of these dealers, distributors, consignors, supervisors, employers, or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers, or persons as "retailers" for the purpose of this Article.
  - b. ~~Delivering.~~ A person engaged in business of delivering, erecting, installing, or applying tangible personal property for use in this State, regardless of whether the property is permanently affixed to real property or other tangible personal property.
  - c. ~~Making~~ A person engaged in business of making a remote sale, if one of the conditions listed in G.S. 105-164.8(b) is met.
  - d. A person, other than a facilitator, required to collect the tax levied under G.S. 105-164.4(a)."

**SECTION 2.11.** G.S. 105-164.4G reads as rewritten:

**"§ 105-164.4G. Entertainment activity.**

...

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

...

(g) Sourcing. – ~~Admission~~ An admission charge to an entertainment activity is sourced to the location where admission to the entertainment activity may be gained by a person. When the location where admission may be gained is not known at the time of the receipt of the gross receipts for an admission charge, the sourcing principles in G.S. 105-164.4B(a) apply."

**SECTION 2.12.** 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:

- ...
- (8a) Sales to a small power production facility, as defined in 16 U.S.C. § 796(17)(A), of fuel and piped natural gas used by the facility to generate electricity.
- ...
- (10) Sales of the following to commercial laundries or to pressing and dry cleaning establishments:
- a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.

- b. Laundry and dry-cleaning machinery, parts and accessories attached to the machinery, and lubricants applied to the machinery.
- c. ~~Fuel, other than electricity, Fuel and piped natural gas~~ used in the direct performance of the laundering or the pressing and cleaning service. The exemption does not apply to electricity.

(57) ~~Fuel and~~ Fuel, piped natural gas, and electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to electricity used at a facility at which the primary activity is not manufacturing.

.....  
 SECTION 2.13.(a) G.S. 105-164.13E reads as rewritten:

**"§ 105-164.13E. Exemption for farmers.**

(a) Exemption. – A qualifying farmer is a person who has an annual ~~gross income from farming operations~~ for the preceding taxable year of ten thousand dollars (\$10,000) or more ~~from farming operations~~ or who has an average annual ~~gross income from farming operations~~ for the three preceding taxable years of ten thousand dollars (\$10,000) or ~~more from farming operations~~. For purposes of this section, the term "income from farming operations" means sales plus any other amounts treated as gross income under the Code from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. A qualifying farmer may apply to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires when a person fails to meet the income threshold for three consecutive taxable years or ceases to engage in farming ~~operations~~.operations, whichever comes first.

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in farming operations. For purposes of this section, an item is used by a farmer for farming operations if it is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals:

- (1) ~~Fuel and~~ Fuel, piped natural gas, and electricity that ~~is~~ are measured by a separate meter or another separate device and used for a purpose other than preparing food, heating dwellings, and other household purposes.
- (2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.
- (3) Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.
- (4) A container used in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals or used in packaging and transporting the farmer's product for sale.
- (5) A grain, feed, or soybean storage facility and parts and accessories attached to the facility.
- (6) Any of the following substances when purchased for use on animals or plants, as appropriate, held or produced for commercial purposes. This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:
  - a. Remedies, vaccines, medications, litter materials, and feeds for animals.
  - b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
  - c. Defoliant for use on cotton or other crops.
  - d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.
  - e. Semen.
- (7) Baby chicks and poults sold for commercial poultry or egg production.

- (8) Any of the following items concerning the housing, raising, or feeding of animals:
- a. A commercially manufactured facility to be used for commercial purposes for housing, raising, or feeding animals or for housing equipment necessary for these commercial activities. The exemption also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the facility.
  - b. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities. The exemption also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the enclosure or a structure.
- (9) A bulk tobacco barn or rack, parts and accessories attached to the tobacco barn or rack, and any similar apparatus, part, or accessory used to cure or dry tobacco or another crop.

(b) **Conditional Exemption.** – A person who does not meet the definition of a qualifying farmer in subsection (a) of this section may apply to the Department for a conditional exemption certificate under G.S. 105-164.28A. A person with a conditional exemption certificate is allowed to purchase items exempt from sales and use tax to the same extent as a qualifying farmer under subsection (a) of this section. To receive a conditional exemption certificate under this subsection, the person must certify that the person intends to engage in farming operations, as that term is described in subsection (a) of this section, and that the person will timely file State and federal income tax returns that reflect income and expenses incurred from farming operations during the taxable years that the conditional exemption certificate applies.

A conditional exemption certificate issued under this subsection is valid for the taxable year in which the certificate is issued and the following two taxable years, provided the person to whom the certificate is issued is engaged in farming and provides copies of applicable State and federal income tax returns to the Department within 90 days following the end of the due date of an income tax return for each taxable year covered by the conditional exemption certificate, including an extension of the due date granted by the Secretary under G.S. 105-263. A conditional exemption certificate issued under this subsection may not be extended or renewed beyond the original three-year period. The Department may not issue a conditional exemption certificate to a person who has had a conditional exemption certificate issued under this subsection during the prior 15 taxable years.

A person who purchases items with a conditional exemption certificate must maintain documentation of the items purchased and copies of State and federal income tax returns that reflect activities from farming operations for the period of time covered by the conditional exemption certificate for three years following the expiration of the conditional exemption certificate. The Secretary may require a person who has a conditional exemption certificate to provide any other information requested by the Secretary to verify the person met the conditions of this subsection. A person who fails to provide the information requested by the Secretary in a timely manner or who fails to meet the requirements of this subsection becomes liable for any taxes for which an exemption under this subsection was claimed. The taxes become due and payable at the expiration of the conditional exemption certificate, and interest accrues from the date of the original purchase. Additionally, where the person does not timely provide the information requested by the Secretary, the misuse of exemption certificate penalty in G.S. 105-236(a)(5a) applies to each seller identified by the Department from which the person made a purchase.

(c) **Contract with a Farmer.** – A qualifying item listed in subdivisions (5), (8), and (9) of subsection (a) of this section purchased to fulfill a contract with a person who holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate issued under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased directly by the person who holds the exemption certificate. A contractor that purchases one of the items allowed an exemption under this section must provide an exemption certificate to the retailer that includes the name of the agricultural exemption certificate holder and the agricultural exemption certificate number issued to that holder.

(d) Definition. – For purposes of this section, the term "taxable year" has the same meaning as defined in G.S. 105-153.3."

**SECTION 2.13.(b)** This section becomes effective July 1, 2014. A contractor who paid sales and use tax on an item exempt from sales and use tax pursuant to G.S. 105-164.13(c), as enacted by this section, may request a refund from the retailer, and the retailer may, upon issuance of the refund or credit, request a refund for the overpayment of tax under G.S. 105-164.11(a)(1).

**SECTION 2.14.(a)** G.S. 105-164.16A reads as rewritten:

**"§ 105-164.16A. Reporting option for prepaid meal plans.**

This section provides a ~~taxpayer-retailer~~ that offers to ~~sell~~ a prepaid meal plan ~~plan~~ subject to the tax imposed by G.S. 105-164.4 with an option concerning the method by which the sales tax will be remitted to the Secretary and a return filed under G.S. 105-164.16. When the retailer enters into an agreement with a food service contractor by which the food service contractor agrees to provide food or prepared food under a prepaid meal plan, and the food service contractor with whom the retailer contracts is also a retailer under this Article, the retailer may include in the agreement that the food service contractor is liable for ~~collecting-reporting~~ and remitting the sales tax due on the gross receipts derived from the prepaid meal plan on behalf of the retailer. The agreement must provide that the tax applies to the allocated sales price of the prepaid meal plan paid by or on behalf of the person entitled to the food or prepaid food under the plan and not the amount charged by the food service contractor to the retailer under the agreement for the food and prepared food for the person.

A retailer who elects this option must report to the food service contractor with whom it has an agreement the gross receipts a person pays to the retailer for a prepaid meal plan. The retailer must report the gross receipts on an accrual basis of accounting, as required under G.S. 105-164.20. The retailer must send the food service contractor the tax due on the gross receipts derived from a prepaid meal plan. Tax payments received by a food service contractor from a retailer are held in trust by the food service contractor for remittance to the Secretary. A food service contractor that receives a tax payment from a retailer must remit the amount received to the Secretary. A food service contractor is not liable for tax due but not received from a retailer. A retailer that does not send the food service contractor the tax due on the gross receipts derived from a prepaid meal plan is liable for the amount of tax the retailer fails to send to the food service contractor."

**SECTION 2.14.(b)** G.S. 105-164.20 reads as rewritten:

**"§ 105-164.20. Cash or accrual basis of reporting.**

(a) ~~Basis Selected.~~ – ~~Any retailer, except a retailer who sells electricity or telecommunications service.~~ Except as provided in subsection (b) of this section, a retailer may report sales on either the cash or accrual basis of accounting upon making application to the Secretary for permission to use the basis selected. Permission granted by the Secretary to report on a selected basis continues in effect until revoked by the Secretary or the taxpayer receives permission from the Secretary to change the basis selected.

(b) Accrual Basis. – ~~A~~ For purposes of reporting and remitting sales tax under this Article, a retailer listed in this subsection must report the gross receipts it derives from the taxable transaction listed in this subsection on an accrual basis of accounting. The following retailers must report gross receipts as provided in this subsection:

- (1) ~~A retailer who sells electricity or electricity, piped natural gas, or telecommunications service must report its sales on an accrual basis. service.~~ A sale of electricity or electricity, piped natural gas, or telecommunications service is considered to accrue when the retailer bills its customer for the sale.
- (2) A retailer who derives gross receipts from a prepaid meal plan, notwithstanding that the retailer may report tax on the cash basis for other sales at retail and notwithstanding that the revenue has not been recognized for accounting purposes.
- (3) A retailer who sells or derives gross receipts from a service contract, as provided in G.S. 105-164.4I(d)."

**SECTION 2.15.** G.S. 105-164.29(a) reads as rewritten:

"(a) Requirement and Application. – Before a person may engage in business as a retailer or a wholesale merchant or when a facilitator is liable for tax under G.S. 105-164.4F, the person must obtain a certificate of registration. To obtain a certificate of registration, a

person must register with the Department. A person who has more than one business is required to obtain only one certificate of registration for each legal entity to cover all operations of each business throughout the State. An application for registration must be signed as follows:

- (1) By the owner, if the owner is an individual.
- (2) By a manager, member, or company official, partner, if the owner is an ~~an~~ association, a partnership, or a limited liability company.
- (2a) By a manager, member, or partner, if the owner is a partnership.
- (3) By an executive officer or some other person specifically authorized by the corporation to sign the application, if the owner is a corporation. If the application is signed by a person authorized to do so by the corporation, written evidence of the person's authority must be attached to the application."

**SECTION 2.16.** G.S. 105-241.6(b)(5) reads as rewritten:

"(b) Exceptions. – The exceptions to the general statute of limitations for obtaining a refund of an overpayment are as follows:

- ...  
(5) Contingent Event. – The period to request a refund of an overpayment may be extended as provided in this subdivision if an event or condition prevents the taxpayer from possessing the information necessary to file an accurate and definite request for a refund of an overpayment under this Chapter:
  - a. If a taxpayer is subject to a contingent event and files written notice with the Secretary, the period to request a refund of an overpayment is six months after the contingent event concludes.
  - b. ~~For purposes of this subdivision,~~ For purposes of this subdivision, a "contingent event" means litigation or a State-state tax audit initiated prior to the expiration of the statute of limitations under subsection (a) of this section, the pendency of which prevents the taxpayer from possessing the information necessary to file an accurate and definite request for a refund of an overpayment under this Chapter.
  - e. ~~For purposes of this subdivision, "notice to the Secretary" means written notice~~ The written notice to the Secretary must be filed with the Secretary prior to expiration of the statute of limitations under subsection (a) of this section for a return or payment in which a contingent event prevents a taxpayer from filing a definite request for a refund of an overpayment. The notice must identify and describe the contingent event, identify the type of tax, list the return or payment affected by the contingent event, and state in clear terms the basis for and an estimated amount of the overpayment.
  - d.b. ~~A~~ If a taxpayer who contends that an event or condition other than litigation or a State tax audit a contingent event, as defined in this subdivision, has occurred that prevents the taxpayer from filing an accurate and definite request for a refund of an overpayment within the period under subsection (a) of this section, the taxpayer may submit a written request to the Secretary seeking an extension of the statute of limitations allowed under this subdivision. The request must establish by clear, convincing proof that the event or condition is beyond the taxpayer's control and that it prevents the taxpayer's timely filing of an accurate and definite request for a refund of an overpayment. The request must be filed within the period under subsection (a) of this section. The Secretary's decision on the request is final and is not subject to administrative or judicial review."

**SECTION 2.17.(a)** G.S. 105-338(c) reads as rewritten:

"(c) Certain Property of Bus Line, Motor Freight Carrier, ~~Airline, and Mobile Telecommunications and Airline~~ Companies. –

- ...  
(4) ~~The appraised valuation of the tangible personal property of a mobile telecommunications company (excluding towers) that is appraised in accordance with the provisions of G.S. 105-336(c) is allocated among the local taxing units in which the property of the company is situated on~~



January 1 in the proportion that the original cost of the property in the taxing unit bears to the original cost of all such property in this State."

**SECTION 2.17.(b)** G.S. 105-339 reads as rewritten:

**"§ 105-339. Certification of appraised valuations of nonsystem property and locally assigned rolling stock, tangible personal property of tower aggregator companies, and ~~certain~~ tangible personal property of mobile telecommunications companies.**

Having determined the appraised valuations of the nonsystem properties of public service companies in accordance with subdivisions (b)(2) and (b)(3) of G.S. 105-335 and the appraised valuations of locally assigned rolling stock in accordance with subdivision (c)(1) of G.S. 105-335, the appraised valuations of the tangible personal property of tower aggregator companies in accordance with G.S. 105-336(d) and the appraised valuations of ~~towers of the tangible personal property of mobile telecommunications companies~~ in accordance with ~~G.S. 105-336(d), G.S. 105-336(c)~~ and (d), the Department of Revenue shall assign those appraised valuations to the taxing units in which such properties are situated by certifying the valuations to the appropriate counties and municipalities. Each local taxing unit receiving such certified valuations shall assess them at the figures certified and shall tax the assessed valuations at the rate of tax levied against other property subject to taxation therein."

**SECTION 2.17.(c)** Section 11.1(g) of S.L. 2014-3 is repealed.

**SECTION 2.17.(d)** Subsection (c) of this section is effective when it becomes law.

The remainder of this section is effective for taxes imposed for taxable years beginning on or after July 1, 2015.

**SECTION 2.18.(a)** G.S. 160A-206 reads as rewritten:

**"§ 160A-206. General power to impose taxes.**

(a) Authority. – A city shall have power to impose taxes only as specifically authorized by act of the General Assembly. Except when the statute authorizing a tax provides for penalties and interest, the power to impose a tax shall include the power to impose reasonable penalties for failure to declare tax liability, if required, or to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law or ordinance. In determining the liability of any taxpayer for a tax, a city may not employ an agent who is compensated in whole or in part by the city for services rendered on a contingent basis or any other basis related to the amount of tax, interest, or penalty assessed against or collected from the taxpayer. The power to impose a tax shall also include the power to provide for its administration in a manner not inconsistent with the statute authorizing the tax.

(b) Prohibition. – A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to sales tax at the combined general rate for which the city receives a share of the tax revenue or they are subject to the local sales tax:

- (1) Supplying piped natural gas.
- (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).
- (3) Providing video programming taxed under G.S. 105-164.4(a)(6).
- (4) Providing electricity."

**SECTION 2.18.(b)** G.S. 153A-146 reads as rewritten:

**"§ 153A-146. General power to impose taxes.**

(a) Authority. – A county may impose taxes only as specifically authorized by act of the General Assembly. Except when the statute authorizing a tax provides for penalties and interest, the power to impose a tax includes the power to impose reasonable penalties for failure to declare tax liability, if required, and to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law or ordinance. In determining the liability of any taxpayer for a tax, a county may not employ an agent who is compensated in whole or in part by the county for services rendered on a contingent basis or any other basis related to the amount of tax, interest, or penalty assessed against or collected from the taxpayer. The power to impose a tax also includes the power to provide for its administration in a manner not inconsistent with the statute authorizing the tax.

(b) Prohibition. – A county may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection:

- (1) Supplying piped natural gas.
- (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).
- (3) Providing video programming taxed under G.S. 105-164.4(a)(6).

(4) Providing electricity."

**SECTION 2.19.(a)** The Department of Revenue may draw the funds needed to make the following distributions from the sales and use tax collections under Article 5 of Chapter 105 of the General Statutes:

- (1) The September 15, 2014, distribution of the franchise tax to cities under G.S. 105-116.1 for the calendar quarter that begins April 1, 2014.
- (2) The September 15, 2014, distribution of the excise tax to cities under G.S. 105-187.44 for the calendar quarter that begins April 1, 2014.

**SECTION 2.19.(b)** This section becomes effective July 1, 2014.

**SECTION 2.20.(a)** G.S. 105-153.3 reads as rewritten:

**"§ 105-153.3. Definitions.**

The following definitions apply in this Part:

- ...
- (18) Surviving spouse. – Defined in section 2(a) of the Code.
- ~~(18)~~(19) Taxable year. – Defined in section 441(b) of the Code.
- ~~(19)~~(20) Taxpayer. – An individual subject to the tax imposed by this Part.
- ~~(20)~~(21) This State. – The State of North Carolina."

**SECTION 2.20.(b)** G.S. 105-153.5(a)(1) reads as rewritten:

"(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. In the case of a married couple filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims the itemized deductions amount:

- (1) Standard deduction amount. – An amount equal to the amount listed in the table below based on the taxpayer's filing status:

<b>Filing Status</b>	<b>Standard Deduction</b>
Married, filing <del>jointly</del> jointly/surviving spouse	\$15,000
Head of Household	12,000
Single	7,500
Married, filing separately	7,500."

**SECTION 2.20.(c)** G.S. 105-134.1 reads as rewritten:

**"§ 105-134.1. Definitions.**

The following definitions apply in this Part:

- ...
- (15a) Surviving spouse. – Defined in section 2(a) of the Code.

....  
**SECTION 2.20.(d)** G.S. 105-134.6(a2) reads as rewritten:

"(a2) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct either the North Carolina standard deduction amount for that taxpayer's filing status or the itemized deductions amount claimed under the Code. The North Carolina standard deduction amount is the lesser of the amount shown in the table below or the amount allowed under the Code. In the case of a married couple filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims itemized deductions for State purposes.

A taxpayer that deducts the standard deduction amount under this subsection and is entitled to an additional deduction amount under section 63(f) of the Code for the aged or blind may deduct an additional amount under this subsection. The additional amount the taxpayer may deduct is six hundred dollars (\$600.00) in the case of an individual who is married and seven hundred fifty dollars (\$750.00) in the case of an individual who is not married and is not a surviving spouse. The taxpayer is allowed the same number of additional amounts that the taxpayer claimed under the Code for the taxable year.

<b>Filing Status</b>	<b>Standard Deduction</b>
Married, filing <del>jointly</del> jointly/ <u>surviving spouse</u>	\$6,000
Head of Household	4,400
Single	3,000
Married, filing separately	3,000."

**SECTION 2.20.(e)** Subsections (a) and (b) of this section are effective for taxable years beginning on or after January 1, 2014. Subsections (c) and (d) of this section are effective retroactively for taxable years beginning on or after January 1, 2012, and before January 1, 2014. The remainder of this section is effective when it becomes law.

**SECTION 2.21.** G.S. 105-164.13B(a)(4) reads as rewritten:

"(a) State Exemption. – Food is exempt from the taxes imposed by this Article unless the food is included in one of the subdivisions in this subsection. The following food items are subject to tax:

- ...
- (4) Prepared food, other than bakery items sold without eating utensils by an artisan bakery. The term "bakery item" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. An artisan bakery is a bakery that meets all of the following requirements:
- a. It derives over eighty percent (80%) of its gross receipts from bakery items.
  - b. Its annual gross receipts, combined with the gross receipts of all related ~~persons as defined in G.S. 105-163.010, persons,~~ do not exceed one million eight hundred thousand dollars (\$1,800,000). For purposes of this subdivision, the term "related person" means a person described in one of the relationships set forth in section 267(b) or 707(b) of the Code."

**SECTION 2.22.(a)** G.S. 105-153.4 reads as rewritten:

**"§ 105-153.4. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A.~~ G.S. 105-153.6.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A,~~ G.S. 105-153.6, multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A,~~ G.S. 105-153.6, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes gross income, as modified under G.S. 105-153.5 and ~~G.S. 105-153.6 and G.S. 105-134.6A,~~ G.S. 105-153.6, derived from all sources during the period the individual was a resident.

(d) S Corporations and Partnerships. – In order to calculate the numerator of the fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share of S Corporation ~~income~~ income, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is includable in the numerator is the shareholder's pro rata share of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of the fraction provided in subsection (b) of this section for a member of a partnership or other unincorporated business that has one or more nonresident members and operates in one or more other states, the amount of the member's distributive share of the total net income of the ~~business~~ business, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is includable in the numerator is determined ~~by multiplying the total net income of the business by the ratio ascertained under the~~ in accordance with the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire gross income of the business less all expenses, taxes, interest, and other deductions allowable under the Code that were incurred in the operation of the business.

(e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis of the taxable year used in computing the taxpayer's income tax liability under the Code."

**SECTION 2.22.(b)** G.S. 105-153.5 is amended by adding a new subsection to read:

"(c1) Other Additions. – S Corporations subject to the provisions of Part 1A of this Article, partnerships subject to the provisions of this Part, and estates and trusts subject to the provisions of Part 3 of this Article must add any amount deducted under section 164 of the Code as state, local, or foreign income tax."

**SECTION 2.22.(c)** This section is effective for taxable years beginning on or after January 1, 2015.

**SECTION 2.23.(a)** G.S. 105-164.13 reads as rewritten:

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

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

- ...
- (62) An item used to maintain or repair tangible personal property or a motor vehicle pursuant to a service contract taxable under this Article if the purchaser of the contract is not charged for the item. This exemption does not apply to an item used to maintain or repair tangible personal property pursuant to a service contract exempt from tax under G.S. 105-164.4I(b). For purposes of this exemption, the term "item" does not include a tool, equipment, supply, or similar tangible personal property used to complete the maintenance or repair and that is not deemed to be a component or repair part of the tangible personal property or motor vehicle for which a service contract is sold to a purchaser.

....

**SECTION 2.23.(b)** G.S. 105-187.52(c) reads as rewritten:

"(c) Exemption. – State agencies are exempted from the privilege taxes imposed by this Article. The exemption in G.S. 105-164.13(62) does not apply to an item used to maintain or repair tangible personal property pursuant to a service contract exempt from tax under G.S. 105-164.4I(b)(4)."

**SECTION 2.23.(c)** Notwithstanding G.S. 105-164.13(62), as amended by S.L. 2014-3 and by subsection (a) of this section, the sales and use tax exemption in G.S. 105-164.13(62) applies to an item used pursuant to a service contract that meets the definition of a "service contract" as defined in G.S. 105-164.3(38b), notwithstanding that the service contract was sold before January 1, 2014, and effective on, before, or after January 1, 2014.

**SECTION 2.23.(d)** This section becomes effective October 1, 2014.

**SECTION 2.24.(a)** Purpose. – The purpose of this section is to extend the statute of limitations for requesting a refund of State income taxes to conform to federal tax treatment of the rollover of an airline payment amount by a qualified airline employee to a traditional or Roth IRA so as to prevent double taxation of the amount for State income tax purposes.

**SECTION 2.24.(b)** Definitions. – The following definitions apply in this section:

- (1) Airline payment amount. – Defined in section 1106(c)(1) of Public Law 112-95, as amended by Public Law 113-243.
- (2) Qualified airline employee. – Defined in section 1106(c)(2) of Public Law 112-95, as amended by Public Law 113-243.

**SECTION 2.24.(c)** Extension of Time to File Claim for Refund. – Notwithstanding the general statute of limitations for obtaining a refund of an overpayment of tax under G.S. 105-241.6(a), a qualified airline employee, or the surviving spouse of a qualified airline employee, that meets all of the following conditions may apply to the Department of Revenue for a refund of the State individual income tax paid on the airline payment amount that was transferred to a traditional IRA:

- (1) Received an airline payment amount in a taxable year beginning before January 1, 2012, and included the amount in federal adjusted gross income.
- (2) Transferred any portion of the airline payment amount to a traditional IRA, either directly or indirectly from a Roth IRA, by August 13, 2012.
- (3) Filed a claim for refund of federal individual income tax paid on the airline payment amount by April 15, 2015, that was accepted by the Internal Revenue Service.

**SECTION 2.24.(d)** Late Refund Request. – A request for a refund under this section must be made to the Secretary of Revenue on or before October 15, 2015. A request for a refund received after that date is barred.

**SECTION 2.25.** If Senate Bill 20 of the 2015 Regular Session of the 2015 General Assembly becomes law, then Section 2.3 of Senate Bill 20 is repealed.

**PART III. EFFECTIVE DATE**

**SECTION 3.1.** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of April, 2015.

s/ Phil Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 12:30 p.m. this 9<sup>th</sup> day of April, 2015