

GENERAL ASSEMBLY OF NORTH CAROLINA

SECOND EXTRA SESSION 1996

H

3

HOUSE BILL 18
Committee Substitute Favorable 7/9/96
Third Edition Engrossed 7/11/96

Short Title: Tax Reduction Act of 1996.

(Public)

Sponsors:

Referred to:

July 8, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO PHASE OUT THE STATE SALES TAX ON FOOD OVER FOUR
3 YEARS, PHASE DOWN THE CORPORATE INCOME TAX OVER FOUR
4 YEARS, ALLOW INCOME AND FRANCHISE TAX CREDITS FOR
5 INVESTMENTS IN BUSINESS PROPERTY AND FOR RESEARCH AND
6 DEVELOPMENT, PHASE OUT THE SOFT DRINK TAX OVER THREE YEARS,
7 REDUCE THE SALES TAX RATE ON ELECTRICITY AND NATURAL GAS
8 USED IN FARMING AND MANUFACTURING, MODIFY THE SALES TAX
9 TREATMENT OF BUNDLED TRANSACTIONS AND FREE ITEMS GIVEN
10 AWAY BY MERCHANTS, SIMPLIFY AND REDUCE INHERITANCE AND
11 GIFT TAXES, EXEMPT FROM INCOME TAX SEVERANCE WAGES PAID DUE
12 TO PLANT CLOSINGS, EXPAND THE PROPERTY TAX HOMESTEAD
13 EXEMPTION, AND ALLOW TAX INCENTIVES FOR CHARITABLE
14 DONATIONS.

15 The General Assembly of North Carolina enacts:

16 TABLE OF CONTENTS

17 I. PHASE OUT STATE FOOD TAX

- 1 II. REDUCE CORPORATE INCOME TAX
 2 III. ALLOW INVESTMENT TAX CREDIT AND RESEARCH AND
 3 DEVELOPMENT TAX CREDIT
 4 IV. PHASE OUT SOFT DRINK TAX
 5 V. REDUCE SALES TAX ON FARM AND INDUSTRY FUEL
 6 VI. MODIFY BUNDLED TRANSACTION AND FREE ITEM SALES
 7 TAX
 8 VII. REDUCE INHERITANCE AND GIFT TAXES
 9 VIII. EXCLUDE SEVERANCE PAY FROM INCOME TAX
 10 IX. EXPAND HOMESTEAD EXEMPTION
 11 X. ALLOW INCENTIVES TO INCREASE CHARITABLE GIVING
 12 XI. EFFECTIVE DATES
 13

14 Section 1. This act shall be known as the Tax Reduction Act of 1996.
 15

16 PART I. PHASE OUT STATE FOOD TAX

17 Sec. 1.1. Effective January 1, 1997, through December 31, 1999, G.S. 105-
 18 164.4(a) is amended by adding a new subdivision to read:

19 "(1f) The following rates apply to the sales price of food and other items
 20 that would be exempt from the tax imposed by this Article if they
 21 were purchased with coupons issued under the Food Stamp Program,
 22 7 U.S.C. § 51:

<u>Effective Dates</u>	<u>Rate</u>
<u>January 1, 1997, through December 31, 1997</u>	<u>three percent (3%)</u>
<u>January 1, 1998, through December 31, 1998</u>	<u>two percent (2%)</u>
<u>January 1, 1999, through December 31, 1999</u>	<u>one percent (1%)."</u>

27 Sec. 1.2. Effective January 1, 2000, Article 5 of Chapter 105 of the General
 28 Statutes is amended by adding a new section to read:

29 "**§ 105-164.13B. Food exempt from tax.**

30 The taxes imposed by this Article do not apply to food and other items that are not
 31 otherwise exempt pursuant to G.S. 105-164.13 but would be exempt pursuant to G.S.
 32 105-164.13 if purchased with coupons issued under the Food Stamp Program, 7 U.S.C. §
 33 51."

34 Sec. 1.3. G.S. 105-465 reads as rewritten:

35 "**§ 105-465. County election as to adoption of local sales and use tax.**

36 The board of elections of any county, upon the written request of the board of county
 37 ~~commissioners thereof, commissioners,~~ or upon receipt of a petition signed by qualified
 38 voters of the county equal in number to at least fifteen percent (15%) of the total number
 39 of votes cast in the county, at the last preceding election for the office of Governor, shall
 40 call a special election for the purpose of submitting to the voters of the county the
 41 question of whether a one percent (1%) sales and use tax ~~as hereinafter provided~~ will be
 42 levied.

1 The special election shall be held under the same rules and regulations applicable to the
2 election of members of the General Assembly. No new registration of voters shall be
3 required. All qualified voters in the county who are properly registered not later than 21
4 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at
5 ~~said the~~ election. The county board of elections shall give at least 20 days' public notice
6 prior to the closing of the registration books for the special election.

7 The county board of election shall prepare ballots for the special election ~~which shall~~
8 ~~contain the words, election.~~ The question presented on the ballot shall be 'FOR the one
9 percent (1%) local sales and use tax ~~only on those items presently covered by the four percent~~
10 ~~(4%) sales and use tax,' and the words, on items subject to State sales and use tax at the~~
11 general State rate and on food' or 'AGAINST the one percent (1%) local sales and use tax
12 only on those items presently covered by the four percent (4%) sales and use tax,' with
13 appropriate squares so that each voter may designate his vote by his cross (X) mark. on items
14 subject to State sales and use tax at the general State rate and on food'.

15 The county board of elections shall fix the date of the special election; ~~provided,~~
16 ~~however, election, except~~ that the special election shall not be held on the date or within
17 60 days of any biennial election for county officers, ~~nor within 60 days thereof,~~ nor within
18 one year from the date of the last preceding special election under this section."

19 Sec. 1.4. G.S. 105-467 reads as rewritten:

20 "**§ 105-467. Scope of sales tax.**

21 The sales tax ~~which that~~ may be imposed under this Article is limited to a tax at the
22 rate of one percent (1%) ~~of~~ of the following:

- 23 (1) The sales price of ~~those articles of~~ tangible personal property ~~now~~ subject
24 to the general rate of sales tax imposed by the State under G.S. 105-
25 164.4(a)(1) and ~~(4b); (a)(4b).~~
- 26 (2) The gross receipts derived from the lease or rental of tangible personal
27 property when the lease or rental of the property is subject to the general
28 rate of sales tax imposed by the State under G.S. ~~105-164.4(a)(2); 105-~~
29 164.4(a)(2).
- 30 (3) The gross receipts derived from the rental of any room or ~~lodging~~
31 ~~furnished by any hotel, motel, inn, tourist camp or other similar~~
32 accommodations ~~now~~ subject to the general rate of sales tax imposed by
33 the State under G.S. ~~105-164.4(a)(3); and 105-164.4(a)(3).~~
- 34 (4) The gross receipts derived from services rendered by laundries, dry
35 cleaners, and other businesses ~~now~~ subject to the general rate of sales
36 tax imposed by the State under G.S. 105-164.4(a)(4).
- 37 (5) The sales price of food that is not otherwise exempt from tax pursuant to
38 G.S. 105-164.13 but would be exempt from the State sales and use tax
39 pursuant to G.S. 105-164.13 if it were purchased with coupons issued
40 under the Food Stamp Program, 7 U.S.C. § 51.

41 The sales tax authorized by this Article does not apply to sales that are taxable by the
42 State under G.S. 105-164.4 but are not specifically included in ~~subdivisions (1) through (4)~~
43 ~~of~~ this section.

1 The State exemptions and exclusions contained in G.S. 105-164.13 and the State
2 refund provisions contained in G.S. 105-164.14 ~~shall apply with equal force and in like~~
3 ~~manner to the local sales and use tax authorized to be levied and imposed under this~~
4 Article. A taxing county ~~shall have no authority, with respect to the local sales and use tax~~
5 ~~imposed under this Article to change, alter, add to or delete any refund provisions contained in~~
6 ~~G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are~~
7 ~~elsewhere provided for. may not allow an exemption, exclusion, or refund that is not~~
8 ~~allowed under the State sales and use tax.~~

9 The local sales tax authorized to be imposed and levied under ~~the provisions of this~~
10 Article ~~shall apply to such retail sales, leases, rentals, the rendering of services,~~
11 ~~furnishing of rooms, lodgings or accommodations and other~~ applies to taxable
12 transactions which are made, furnished or rendered by retailers whose place of business is
13 located within the taxing county. The tax imposed shall apply to the furnishing of rooms,
14 lodging or other accommodations within the county which are rented to transients. For
15 the purpose of this Article, the situs of a transaction is the location of the retailer's place
16 of business."

17 Sec. 1.5. G.S. 105-468 reads as rewritten:

18 "**§ 105-468. Scope of use tax.**

19 The use tax ~~which may be imposed under authorized by this Article shall be~~ is a tax at
20 the rate of one percent (1%) of the cost price of each item or article of tangible personal
21 property when it ~~that~~ is not sold in the taxing county but is used, consumed-consumed, or
22 stored for use or consumption in the taxing county, except that no tax shall be imposed upon
23 tangible personal property when the property would be taxed by the State at a rate other than the
24 general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6. county. The
25 tax applies to the same items that are subject to tax under G.S. 105-467.

26 Every retailer who is engaged in business in this State and in the taxing county and is
27 required to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent
28 (1%) use tax when such ~~the~~ property is to be used, ~~consumed-consumed,~~ or stored in the
29 taxing county, one percent (1%) use tax to be collected concurrently with the State's use tax; but
30 no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect
31 the one percent (1%) use tax. county. The use tax contemplated by this section shall be
32 levied against the purchaser, and the purchaser's liability for the use tax shall be
33 extinguished only upon payment of the use tax to the retailer, where the retailer is
34 required to collect the tax, or to the Secretary of Revenue, or to the taxing county, as
35 appropriate, Secretary, where the retailer is not required to collect the tax.

36 Where a local sales or use tax has been paid with respect to tangible personal property
37 by the purchaser, either in another taxing county within the State, or in a taxing
38 jurisdiction outside the State where the purpose of the tax is similar in purpose and intent
39 to the tax which may be imposed pursuant to this Article, the tax paid may be credited
40 against the tax imposed under this section by a taxing county upon the same property. If
41 the amount of sales or use tax so paid is less than the amount of the use tax due the taxing
42 county under this section, the purchaser shall pay to the Secretary ~~of Revenue or to the~~
43 ~~taxing county, as appropriate,~~ an amount equal to the difference between the amount so

1 paid in the other taxing county or jurisdiction and the amount due in the taxing county.
 2 The Secretary of Revenue or the taxing county, as appropriate, may require such proof of
 3 payment in another taxing county or jurisdiction as is deemed to be necessary. The use
 4 tax levied under this Article is not subject to credit for payment of any State sales or use
 5 tax not imposed for the benefit and use of counties and municipalities. No credit shall be
 6 given under this section for sales or use taxes paid in a taxing jurisdiction outside this
 7 State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this
 8 Article."

9 Sec. 1.6. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session
 10 Laws, as amended, is amended as follows:

- 11 (1) By deleting the word "and" before subdivision (4).
- 12 (2) By changing the period at the end of subdivision (4) to a semicolon and
 13 adding the word "and".
- 14 (3) By adding a new subdivision to read:
- 15 "(5) The sales price of food and other items that are not otherwise exempt
 16 from tax pursuant to G.S. 105-164.13 but would be exempt from the
 17 State sales and use tax pursuant to G.S. 105-164.13 if purchased with
 18 coupons issued under the Food Stamp Program, 7 U.S.C. § 51."

19 Sec. 1.7. Section 5 of Chapter 1096 of the 1967 Session Laws is amended by
 20 deleting the first sentence of that section and substituting the following sentences to read:

21 "The use tax that Mecklenburg County may impose under this division is a tax at the
 22 rate of one percent (1%) of the cost price of each item or article of tangible personal
 23 property that is not sold but is used, consumed, or stored for use or consumption in
 24 Mecklenburg County. The tax applies to the same items that are subject to tax under
 25 Section 4 of this act."

26 Sec. 1.8. Approval under Article 39, 40, or 42 of Chapter 105 of the General
 27 Statutes or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the
 28 1967 Session Laws, as amended, of local sales and use taxes on items subject to State
 29 sales and use tax at the general State rate constitutes approval of local sales and use taxes
 30 on food.

31
 32 PART II. REDUCE CORPORATE INCOME TAX

33 Sec. 2.1. G.S. 105-130.3 reads as rewritten:

34 "**§ 105-130.3. Corporations.**

35 A tax is imposed on the State net income of every C Corporation doing business in
 36 this State ~~at seven and seventy five one hundredths percent (7.75%) of the corporation's State~~
 37 ~~net income.~~ State. An S Corporation is not subject to the tax levied in this section. The
 38 tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
<u>In 1997</u>	<u>7.5%</u>
<u>In 1998</u>	<u>7.25%</u>
<u>In 1999</u>	<u>7%</u>
<u>After 1999</u>	<u>6.75%".</u>

1 Sec. 2.2. G.S. 115C-546.1 reads as rewritten:

2 **"§ 115C-546.1. Creation of Fund; administration.**

3 (a) There is created the Public School Building Capital Fund. The Fund shall be
4 used to assist county governments in meeting their public school building capital needs.

5 (b) Each calendar quarter, the Secretary of Revenue shall remit to the State
6 Treasurer for credit to the Public School Building Capital Fund an amount equal to ~~two~~
7 ~~thirty-firsts (2/31)~~ the applicable fraction provided in the table below of the net collections
8 received during the previous quarter by the Department of Revenue under G.S. 105-130.3
9 minus two million five hundred thousand dollars (\$2,500,000). All funds deposited in the
10 Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and
11 G.S. 147-69.3.

12 Period Fraction

13 10/1/97 to 9/30/98

One-fifteenth (1/15)

14 10/1/98 to 9/30/99

Two twenty-ninths (2/29)

15 10/1/99 to 9/30/00

One-fourteenth (1/14)

16 After 9/30/00

Two twenty-sevenths (2/27)

17 (c) The Fund shall be administered by the Office of State Budget and
18 Management."

19
20 PART III. ALLOW INVESTMENT TAX CREDIT AND RESEARCH AND
21 DEVELOPMENT TAX CREDIT

22 Sec. 3.1. Chapter 105 of the General Statutes is amended by adding a new
23 Article to read:

24 **"ARTICLE 3A.**

25 **"INVESTMENT AND RESEARCH AND DEVELOPMENT TAX CREDITS.**

26 **"§ 105-129.2. Definitions.**

27 The following definitions apply in this Article:

28 (1) Business property. – Tangible personal property that is used by the
29 taxpayer in connection with a business or for the production of income
30 and is capitalized by the taxpayer for tax purposes under the Code.

31 (2) Cost. – Defined in section 179 of the Code.

32 (3) Data processing. – Defined in the Standard Industrial Classification
33 Manual issued by the United States Bureau of the Census.

34 (4) Manufacturing and processing. – Defined in the Standard Industrial
35 Classification Manual issued by the United States Bureau of the Census.

36 (5) Purchase. – Defined in section 179 of the Code.

37 (6) Warehousing and distribution. – Defined in the Standard Industrial
38 Classification Manual issued by the United States Bureau of the Census.

39 **"§ 105-129.3. Credit for investing in business property.**

40 (a) Credit. – A taxpayer that has purchased business property and places it in
41 service in this State during the taxable year is allowed a credit equal to seven and
42 seventy-five-hundredths percent (7.75%) of the cost of the property. The maximum
43 credit allowed a taxpayer for property placed in service during a taxable year is eleven

1 thousand six hundred twenty-five dollars (\$11,625). The entire credit may not be taken
2 for the taxable year in which the property is placed in service but must be taken in five
3 equal installments beginning with the taxable year in which the property is placed in
4 service.

5 (b) Expiration. – If, in one of the five years in which the installment of a credit
6 accrues, the business property with respect to which the credit was claimed is sold or
7 moved out of State, the credit expires and the taxpayer may not take any remaining
8 installment of the credit. The taxpayer may, however, take the portion of an installment
9 that accrued in a previous year and was carried forward to the extent permitted under
10 G.S. 105-129.5.

11 **"§ 105-129.4. Credit for research and development.**

12 (a) Credit. – An eligible taxpayer who claims for the taxable year a federal income
13 tax credit under section 41 of the Code for increasing research activities is allowed a
14 credit equal to five percent (5%) of the State's apportioned share of the taxpayer's
15 expenditures for increasing research activities. The State's apportioned share of a
16 taxpayer's expenditures for increasing research activities is the excess of the taxpayer's
17 qualified research expenses for the taxable year over the base amount, as determined
18 under section 41 of the Code, multiplied by a percentage equal to the ratio of the
19 taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's
20 total qualified research expenses for the taxable year. As used in this section, the terms
21 'qualified research expenses' and 'base amount' have the meaning provided in section 41
22 of the Code.

23 (b) Eligibility. – A taxpayer is eligible for a credit allowed by this section only if
24 the taxpayer satisfies both of the following conditions at the time the credit is claimed:

25 (1) Type of Business. – The taxpayer engages in manufacturing or
26 processing, warehousing or distributing, or data processing, and the
27 research and development for which a credit is claimed is carried out as
28 part of that business.

29 (2) Wage Standard. – The jobs at the location with respect to which the
30 taxpayer claims the credit meet the wage standard. Jobs meet the wage
31 standard if they pay an average weekly wage that is at least ten percent
32 (10%) above the average weekly wage paid in the county in which the
33 jobs are located. In calculating the average weekly wage of jobs,
34 positions that pay a wage or salary at a rate that exceeds one hundred
35 thousand dollars (\$100,000) a year shall be excluded. For the purpose
36 of this subdivision, the average wage in a county is the average wage for
37 all insured industries in the county as computed by the Employment
38 Security Commission for the most recent period for which data are
39 available.

40 (d) Forfeiture. – A taxpayer forfeits a credit allowed under this section if the
41 taxpayer was not eligible for the credit at the time the taxpayer claimed the credit. A
42 taxpayer who forfeits a credit under this section is liable for all past taxes avoided as a
43 result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed

1 from the date the taxes would have been due if the credit had not been allowed. The past
2 taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer who
3 fails to pay the past taxes and interest by the due date is subject to the penalties provided
4 in G.S. 105-236.

5 **"§ 105-129.5. Tax election; cap.**

6 (a) Tax Election. – The credits provided in this Article are allowed against the
7 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of
8 this Chapter. The taxpayer must elect the tax against which the credit will be claimed
9 when filing the return on which the first installment of the credit is claimed. This
10 election is binding. Any carryforwards of the credit must be claimed against the same
11 tax.

12 (b) Cap. – The credits allowed under this Article may not exceed fifty percent
13 (50%) of the tax against which they are claimed for the taxable year, reduced by the sum
14 of all other credits allowed against that tax, except tax payments made by or on behalf of
15 the taxpayer. This limitation applies to the cumulative amount of credit, including
16 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable
17 year. Any unused portion of the credit may be carried forward for the succeeding five
18 years.

19 **"§ 105-129.6. Substantiation.**

20 To claim a credit allowed by this Article, the taxpayer must provide any information
21 required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article
22 must maintain and make available for inspection by the Secretary of Revenue any records
23 the Secretary considers necessary to determine and verify the amount of the credit to
24 which the taxpayer is entitled. The burden of proving eligibility for the credit and the
25 amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer
26 that fails to maintain adequate records or to make them available for inspection.

27 **"§ 105-129.7. Reports.**

28 The Department of Revenue shall report to the Legislative Research Commission and
29 to the Fiscal Research Division of the General Assembly by May 1 of each year the
30 following information for the 12-month period ending the preceding April 1:

- 31 (1) The number of taxpayers that claimed each credit allowed in this
32 Article.
- 33 (2) The cost of business property with respect to which credits were
34 claimed.
- 35 (3) The total cost to the General Fund of the credits claimed."

36 Sec. 3.2. G.S. 105-241.1(e), as amended by Chapter 646 of the 1995 Session
37 Laws, reads as rewritten:

38 "(e) Statute of Limitations. – There is no statute of limitations and the Secretary
39 may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did
40 not file a proper application for a license or did not file a return, (ii) the taxpayer filed a
41 false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to
42 fraudulently evade or defeat the tax.

1 If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-
2 29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must
3 propose an assessment of any tax due within one year after the return is filed or within
4 three years of when the original return was filed or due to be filed, whichever is later. If
5 there is a federal determination and the taxpayer does not file the required return, the
6 Secretary must propose an assessment of any tax due within three years after the date the
7 Secretary received the final report of the federal determination. If a taxpayer forfeits a tax
8 credit pursuant to G.S. ~~105-163.014~~, 105-163.014 or Article 3A of this Chapter, the
9 Secretary must assess any tax due as a result of the forfeiture within three years after the
10 date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to
11 recognize gain from involuntary conversion of property into money, the Secretary must
12 assess any tax due as a result of the conversion or election within the applicable period
13 provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer
14 sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as
15 a result of the sale within the period provided under section 1034(j) of the Code.

16 In all other cases, the Secretary must propose an assessment of any tax due from a
17 taxpayer within three years after the date the taxpayer filed an application for a license or
18 a return or the date the application or return was required by law to be filed, whichever is
19 later.

20 If the Secretary proposes an assessment of tax within the time provided in this section,
21 the final assessment of the tax is timely.

22 A taxpayer may make a written waiver of any of the limitations of time set out in this
23 subsection, for either a definite or an indefinite time. If the Secretary accepts the
24 taxpayer's waiver, the Secretary may propose an assessment at any time within the time
25 extended by the waiver."

26 Sec. 3.3. Notwithstanding the provisions of G.S. 105-129.4, as enacted by this
27 act, if a taxpayer relocates an employee to this State during 1996, any in-house research
28 expenses the taxpayer incurs with respect to that employee during 1996, either before or
29 after the employee is relocated to this State, are considered in-house research expenses in
30 this State for the purposes of G.S. 105-129.4.

31 Sec. 3.4. Notwithstanding the definition of 'Code' in G.S. 105-228.90, if the
32 federal tax credit for increasing research activities that was formerly allowed under
33 Section 41 of the Code is reenacted, the credit for research and development allowed in
34 Article 3A of Chapter 105 of the General Statutes, as enacted by this Part, becomes
35 effective for the same taxable year for which the reenacted federal credit becomes
36 effective.

37 38 PART IV. PHASE OUT SOFT DRINK TAX

39 Sec. 4.1. G.S. 105-113.45, as amended by Chapter 646 of the 1995 Session
40 Laws, reads as rewritten:

41 **"§ 105-113.45. Excise taxes on soft drinks and base products.**

42 (a) Bottled Soft Drinks. – An excise tax of ~~three-fourths cent (3/4¢)~~ at the applicable
43 rate provided in the following table is levied on each bottled soft drink.

<u>Date Tax Accrues</u>	<u>Rate</u>
From 7/1/96 until 6/30/97	<u>3/4¢</u>
From 7/1/97 until 6/30/98	<u>1/2¢</u>
After 7/1/98	<u>1/4¢</u>

(b) Repealed by Session Laws 1991, c. 689, s. 276.

(c) Liquid Base Products. – An excise tax at the ~~rate of seventy five cents (75¢) a gallon~~ applicable per-gallon rate provided in the table below is levied on each individual container of a liquid base product. The tax applies regardless whether the liquid base product is diverted to and used for a purpose other than making a soft drink.

<u>Date Tax Accrues</u>	<u>Rate</u>
From 7/1/96 until 6/30/97	<u>75¢</u>
From 7/1/97 until 6/30/98	<u>50¢</u>
After 7/1/98	<u>25¢</u>

(d) Dry Base Products. – An excise tax is levied on each individual container of a dry base product ~~at the rate: at:~~

(1) ~~Of three-fourths cent (3/4¢) an ounce~~ The applicable per-ounce rate in the table below if the dry base product is not converted into a syrup or other liquid base product before it is used to make a soft drink.

<u>Date Tax Accrues</u>	<u>Rate</u>
From 7/1/96 until 6/30/97	<u>3/4¢</u>
From 7/1/97 until 6/30/98	<u>1/2¢</u>
After 7/1/98	<u>1/4¢</u>

(2) ~~That~~ The rate that would apply under subsection (c) to the resulting liquid base product if the dry base product is converted into a liquid base product before it is used to make a soft drink.

(e) Repealed by Session Laws 1991, c. 689, s. 276."

Sec. 4.2. Effective July 1, 1999, Article 2B of Chapter 105 of the General Statutes, as amended by this act, is repealed. The Secretary shall retain from collections under Article 2 of Chapter 105 of the General Statutes the cost of refunding the taxes levied in Article 2B of Chapter 105 of the General Statutes.

PART V. REDUCE SALES TAX ON FARM AND INDUSTRY FUEL

Sec. 5.1. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(1f) The rate of two and sixty-seven-hundredths percent (2.67%) applies to the sales price of the articles listed in paragraphs a. through c. of this subdivision:

a. Sales of electricity and piped natural gas to farmers to be used by them for any farm purposes other than preparing food, heating dwellings, and other household purposes. The quantity of electricity or gas purchased or used at any one time shall not be a determinative factor as to whether its sale or use is or is not subject to the rate of tax provided in this subdivision.

- 1 b. Sales of electricity and piped natural gas to manufacturing
2 industries and manufacturing plants for use in connection with
3 the operation of the industries and plants other than sales of
4 electricity and gas to be used for residential heating purposes.
5 The quantity of electricity or gas purchased or used at any one
6 time shall not be a determinative factor as to whether its sale or
7 use is or is not subject to the rate of tax provided in this
8 subdivision.
- 9 c. Sales of electricity and piped natural gas to commercial laundries
10 or to pressing and dry-cleaning establishments for use in
11 machinery used in the direct performance of the laundering or the
12 pressing and cleaning service."

13 Sec. 5.2. G.S. 105-164.4(a)(4a) reads as rewritten:

- 14 "(4a) The rate of three percent (3%) applies to the gross receipts
15 derived by a utility from sales of electricity, piped natural gas, or
16 local telecommunications service as defined by G.S. 105-120(e).
17 105-120(e), other than sales of electricity or piped natural gas
18 subject to tax under another subdivision in this section. Gross
19 receipts from sales of piped natural gas shall not include natural
20 gas expansion surcharges imposed under G.S. 62-158. A person
21 who operates a utility is considered a retailer under this Article."
22

23 PART VI. MODIFY BUNDLED TRANSACTION AND FREE ITEM SALES TAX

24 Sec. 6.1. Article 5 of Chapter 105 of the General Statutes is amended by
25 adding a new section to read:

26 "**§ 105-164.12B. Bundled transactions.**

27 (a) Bundled Transaction Defined. – A bundled transaction is a transaction in
28 which all of the following conditions are met:

- 29 (1) A seller transfers an item of tangible personal property to a consumer on
30 the condition that the consumer enter into an agreement to purchase
31 services on an ongoing basis for a minimum period of at least six
32 months.
- 33 (2) The agreement requires the consumer to pay a cancellation fee to the
34 service provider if the consumer cancels the contract for services within
35 the minimum period.
- 36 (3) For the item transferred, the seller:
- 37 a. Does not charge the consumer; or
38 b. Charges the consumer a price that, after any discount or rebate
39 the seller gives the consumer, is below the cost price the seller
40 paid for the item.

41 (b) Bundled Transaction Is a Sale; Sales Price. – If a seller transfers an item of
42 tangible personal property as part of a bundled transaction, a sale has occurred, and the
43 sales price of the item is presumed to be the retail price at which the item would sell if no

1 agreement for services were entered into. Part of this price may be paid by the consumer
2 at the time of the transfer; the remainder of the price is considered paid as part of the
3 price to be paid for the services contracted for. Sales tax is due on any part of the price
4 paid by the consumer at the time of the transfer.

5 (c) No Additional Sales Tax if Services Taxed. – If the services for which the
6 consumer was required to contract are subject to services taxes at a combined rate equal
7 to or greater than the combined State and local general rate of sales and use tax, then no
8 additional sales tax is due on the transfer. However, if the consumer cancels the contract
9 for services before the expiration of the minimum period, sales tax applies to the
10 cancellation fee paid by the consumer.

11 (d) Additional Sales Tax if Services Not Taxed. – If the services for which the
12 consumer was required to contract are not subject to services taxes at a combined rate
13 equal to or greater than the combined State and local general rate of sales and use tax,
14 then sales tax is due at the time of the transfer on the remainder of the sales price not paid
15 at that time.

16 (e) Services Taxes Defined. – For the purpose of this section, the term 'services
17 taxes' means any combination of State franchise tax on gross receipts, State sales tax, or
18 local sales tax levied on the sale of or gross receipts from the services.

19 (f) Determination of Cost Price. – For the purpose of this section, the cost price a
20 seller paid for an item is presumed to be no greater than the price the seller paid for the
21 same model within 12 months before the bundled transaction, as shown on the seller's
22 invoices."

23 Sec. 6.2. G.S. 105-164.3(15) reads as rewritten:

24 "(15) 'Sale' or "selling" shall mean any selling. – The transfer of title or
25 possession, or both, exchange, barter, lease, license to use or consume, or
26 rental possession of tangible personal property, conditional or
27 otherwise, in any manner or by any means whatsoever, however
28 effected and by whatever name called, for a consideration paid or to be
29 paid, and paid.

30 The term includes the fabrication of tangible personal property for
31 consumers by persons engaged in business who furnish either directly or
32 indirectly the materials used in the fabrication work, and work. The term
33 also includes the furnishing, preparing, or serving furnishing or preparing
34 for a consideration of any tangible personal property consumed on the
35 premises of the person furnishing, preparing, or serving such tangible
36 personal furnishing or preparing the property or consumed at the place at
37 which such the property is prepared, served or sold. furnished or prepared.
38 A transaction whereby The term also includes a transaction in which the
39 possession of the property is transferred but the seller retains title or
40 security for the payment of the price shall be deemed a sale. consideration.

41 If a retailer engaged in the business of selling prepared food and
42 drink for immediate or on-premises consumption also gives prepared
43 food or drink to its patrons or employees free of charge, for the purposes

of this Article the property given away is considered sold along with the property sold. If a retailer gives an item of inventory to a customer free of charge on the condition that the customer purchase similar or related property, the item given away is considered sold along with the item sold. In all other cases, property given away or used by any retailer or wholesale merchant is not considered sold, whether or not the retailer or wholesale merchant recovers its cost of the property from sales of other property."

Sec. 6.3. G.S. 105-164.3 is amended by adding a new subdivision to read:

"(11a) Prepared food and drink. – Meals, food, and beverages to which a retailer has added value or whose state the retailer has altered (other than solely by cooling) by preparing, combining, dividing, heating, or serving, in order to make them available for immediate human consumption."

PART VII. REDUCE INHERITANCE AND GIFT TAXES

Sec. 7.1. Article 1 of Chapter 105 of the General Statutes is amended by adding a new section to read:

§ 105-6.1. Phaseout of inheritance tax.

When this Article imposes an inheritance tax on property transferred by a decedent but no state death tax credit is allowed under section 2011 of the Code against federal estate tax due on the transfer of the decedent's estate, the amount of inheritance tax is reduced by the appropriate percentage in the phaseout table set out below. When this Article imposes an inheritance tax on property transferred by a decedent and a state death tax credit is allowed under section 2011 of the Code against federal estate tax due on the transfer of the decedent's estate, the amount of inheritance tax that exceeds the maximum credit for state death taxes is reduced by the appropriate percentage in the following phaseout table:

<u>Calendar Year of Decedent's Death</u>	<u>Percentage Reduction</u>
<u>1997</u>	<u>20%</u>
<u>1998</u>	<u>40%</u>
<u>1999</u>	<u>60%</u>
<u>2000</u>	<u>80%</u>
<u>2001 and after</u>	<u>100%."</u>

Sec. 7.2. G.S. 105-3 is amended by adding a new subdivision to read:

"(11) Property transferred to a spouse when the transfer of the property is exempt from federal estate and gift taxes under section 2056(b)(7) of the Code because it is considered qualified terminable interest property."

Sec. 7.3. G.S. 105-188 is amended by adding a new subsection to read:

1 "(j) The tax does not apply to property transferred to a spouse when the transfer of
2 the property is exempt from federal estate and gift taxes under section 2523(f) of the
3 Code because it is considered qualified terminable interest property."

4 Sec. 7.4. G.S. 105-2(a) reads as rewritten:

5 "(a) A tax shall be and is hereby imposed upon the transfer of any property, real or
6 personal, or of any interest therein or income therefrom, in trust or otherwise, to persons
7 or corporations, in the following cases:

8 (1) When the transfer is from a person who dies seized of the
9 property while a resident of the State and it is made:

- 10 a. By will or by intestacy;
11 b. Pursuant to a final judgment entered in a proceeding to caveat a
12 will; or
13 c. Pursuant to a settlement agreement, to which the personal
14 representative is a party, that, in the determination of the
15 Secretary of Revenue in his sole discretion based on evidence
16 presented by the personal representative, reflects the good faith,
17 arm's-length compromise of an actual dispute between
18 beneficiaries, heirs, or personal representatives and does not have
19 the primary purpose of avoiding inheritance tax.

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

29 (3) When the transfer of property made by a resident, or
30 nonresident, is of real property within this State, or of goods, wares
31 and merchandise within this State, or of any other property, real,
32 personal, or mixed, tangible or intangible, over which the State of
33 North Carolina has taxing jurisdiction, including State and municipal
34 bonds, by deed, grant, bargain, sale, or gift made in contemplation of
35 the death of the grantor, vendor, or donor, or intended to take effect in
36 possession or enjoyment at or after such death, including a transfer
37 under which the transferor has retained for his life or any period not
38 ending before his death (i) the possession or enjoyment of, or the
39 income from, the property or (ii) the right to designate the persons
40 who shall possess or enjoy the property or the income therefrom. The
41 aggregate value exceeding ten thousand dollars (\$10,000) of transfers
42 to any one donee within a tax year by deed, grant, bargain, sale, gift,
43 or combination thereof, made within three years prior to the death of

1 the grantor, vendor, or donor, without an adequate valuable
2 consideration, shall be presumed, subject to rebuttal, to have been
3 made in contemplation of death within the meaning of this section; the
4 first ten thousand dollars (\$10,000) in value shall be deemed not made
5 in contemplation of death.

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

14 (5) a. For purposes of this Article, the term 'general
15 power of appointment' means a power which is exercisable in
16 favor of the decedent, his estate, his creditors, or the creditors
17 of his estate; except that:

18 1. A power to consume, invade or appropriate
19 property for the benefit of the decedent which is limited
20 by an ascertainable standard relating to the health,
21 education, support or maintenance of the decedent shall
22 not be deemed a general power of appointment.

23 2. A power of appointment which is exercisable
24 by the decedent only in conjunction with another
25 person:

26 I. If the power is not exercisable by the decedent
27 except in conjunction with the creator of the power,
28 such power shall not be deemed a general power of
29 appointment.

30 II. If the power is not exercisable by the decedent
31 except in conjunction with a person having a
32 substantial interest in the property, subject to the
33 power, which is adverse to exercise of the power in
34 favor of the decedent, such power shall not be
35 deemed a general power of appointment. For the
36 purposes of this clause a person who, after the
37 death of the decedent, may be possessed of a power
38 of appointment (with respect to the property subject
39 to the decedent's power) which he may exercise in
40 his own favor shall be deemed as having an interest
41 in the property and such interest shall be deemed
42 adverse to such exercise of the decedent's power.

- 1 III. If (after the application of clauses I and II) the
2 power is a general power of appointment and is
3 exercisable in favor of such other person, such
4 power shall be deemed a general power of
5 appointment only in respect of a fractional part of
6 the property subject to such power, such part to be
7 determined by dividing the value of such property
8 by the number of such persons (including the
9 decedent) in favor of whom such power is
10 exercisable.
- 11 IV. For purposes of clauses II and III, a power shall be
12 deemed to be exercisable in favor of a person if it is
13 exercisable in favor of such person, his estate, his
14 creditors, or the creditors of his estate.
- 15 b. Whenever any person shall have a general power of appointment
16 with respect to any interest in property, such person shall, for the
17 purposes of this Article, be deemed the owner of such interest
18 and accordingly:
- 19 1. If in connection with any transfer of property
20 taxable under this Article the transferor shall give to any
21 person a general power of appointment with respect to
22 any interest in such property, the transferor shall be
23 deemed to have given such interest in such property to
24 such person.
- 25 2. If any person holding a general power of
26 appointment with respect to any interest in property
27 shall exercise such power in favor of any other person
28 or persons, either by will or by an appointment made in
29 contemplation of the death of such person, or by an
30 appointment intended to take effect in possession or
31 enjoyment at or after such death, he shall be deemed to
32 have made a transfer of such interest to such person or
33 persons.
- 34 3. If any person holding a general power of
35 appointment with respect to any interest in property
36 shall relinquish such power by any action taken in
37 contemplation of death or intended to take effect at or
38 after his death, or shall die without fully exercising such
39 power, he shall be deemed, to the extent of such
40 relinquishment or nonexercise, to have made a transfer
41 of such interest to the person or persons who shall
42 benefit thereby.

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

13 a. If a gift tax return is filed with respect to such transfer,
14 the persons designated therein shall also be designated in the
15 inheritance tax return, and

16 b. The tax shall be computed according to the
17 relationship of the donee of the power to the persons
18 designated if the possible appointees and takers in default of
19 appointment include any persons more closely related to the
20 donee of the power than to the donor, and if such computation
21 would produce a higher tax.

22 (7), (7a) Repealed by Session Laws, 1985, c. 656, s. 1.

23 (8) Where the proceeds of life insurance policies are payable as
24 provided in G.S. 105-13.

25 (9) Whenever any person or corporation comes into possession or
26 enjoyment of any real or personal property, including bonds of the
27 United States and bonds of a state or subdivision or agency thereof, at
28 or after the death of an individual and by reason of said individual's
29 having entered into a contract or other arrangement with the United
30 States, a state or any person or corporation to pay, transfer or deliver
31 said real or personal property, including bonds of the United States
32 and bonds of a state, to the person or corporation receiving the same,
33 whether said person or corporation is named in the contract or other
34 arrangement or not: Provided, that no tax shall be due or collected on
35 that portion of the real or personal property received under the
36 conditions outlined herein which the person or corporation receiving
37 the same purchased or otherwise acquired by funds or property of the
38 person or corporation receiving the same, or had acquired by a
39 completed inter vivos gift.

40 Nothing in subdivision (9) shall apply to the proceeds of life
41 insurance policies.

42 (10) Upon the death of a spouse who had a qualifying income interest for life
43 in qualified terminable interest property whose previous transfer was

1 (3) Secretary. – Defined in G.S. 105-228.90.

2 **"§ 105-32.2. Estate tax imposed in amount equal to federal state death tax credit.**

3 (a) Tax. – An estate tax is imposed on the estate of a decedent when a federal
4 estate tax is imposed on the estate under section 2001 of the Code and any of the
5 following apply:

6 (1) The decedent was a resident of this State at death.

7 (2) The decedent was not a resident of this State at death and owned any of
8 the following:

9 a. Real property or tangible personal property that is located in this
10 State.

11 b. Intangible personal property that has a tax situs in this State.

12 (b) Amount. – The amount of the estate tax imposed by this section is the
13 maximum credit for state death taxes allowed under section 2011 of the Code. If any
14 property in the estate is located in a state other than North Carolina, the amount of tax
15 payable is the North Carolina percentage of the credit.

16 If the decedent was a resident of this State at death, the North Carolina percentage is
17 the net value of the estate that does not have a tax situs in another state, divided by the net
18 value of all property in the estate. If the decedent was not a resident of this State at death,
19 the North Carolina percentage is the net value of real property that is located in North
20 Carolina plus the net value of any personal property that has a tax situs in North Carolina,
21 divided by the net value of all property in the estate, unless the decedent's state of
22 residence uses a different formula to determine that state's percentage. In that
23 circumstance, the North Carolina percentage is the amount determined by the formula
24 used by the decedent's state of residence.

25 The net value of property that is located in or has a tax situs in this State is its gross
26 value reduced by any debt secured by that property. The net value of all the property in
27 the estate is its gross value reduced by any debts and deductions of the estate.

28 **"§ 105-32.3. Liability for estate tax.**

29 (a) Primary. – The tax imposed by this Article is payable from the assets of the
30 estate. A person who receives property from an estate is liable for the amount of estate
31 tax attributable to that property.

32 (b) Personal Representative. – The personal representative of an estate is liable for
33 an estate tax that is not paid within two years after it was due. This liability is limited to
34 the value of the assets of the estate that were under the control of the personal
35 representative. The amount for which the personal representative is liable may be
36 recovered from the personal representative or from the surety on any bond filed by the
37 personal representative under Article 8 of Chapter 28A of the General Statutes.

38 (c) Clerk of Court. – A clerk of court who allows a personal representative to
39 make a final settlement of an estate without presenting one of the following is liable on
40 the clerk's bond for any estate tax due:

41 (1) An affirmation by the personal representative certifying that no tax is
42 due on the estate because this Article does not require an estate tax
43 return to be filed for that estate.

1 (2) A certificate issued by the Secretary stating that the tax liability of the
2 estate has been satisfied.

3 **"§ 105-32.4. Payment of estate tax.**

4 (a) Due Date. – The estate tax imposed by this Article is due when an estate tax
5 return is due. An estate tax return is due on the date a federal estate tax return is due.

6 (b) Filing Return. – An estate tax return must be filed under this Article if a federal
7 estate tax return is required. The return must be filed by the personal representative of
8 the estate on a form provided by the Secretary.

9 (c) Extension. – An extension of time to file a federal estate tax return is an
10 automatic extension of the time to file an estate tax return under this Article. The
11 Secretary may, in accordance with G.S. 105-263, extend the time for paying the estate
12 tax imposed by this Article or for filing an estate tax return.

13 (d) Interest and Penalties. – The penalties in G.S. 105-236 apply to the failure to
14 file an estate tax return or to pay an estate tax when due. Interest at the rate set in G.S.
15 105-241.1 accrues on estate taxes paid after the date they are due.

16 (e) Obtaining Amount Due. – The personal representative of an estate may sell
17 assets in the estate to obtain money to pay the tax imposed by this Article.

18 **"§ 105-32.5. Making installment payments of tax due when federal estate tax is**
19 **payable in installments.**

20 A personal representative who elects under section 6166 of the Code to make
21 installment payments of federal estate tax may elect to make installment payments of the
22 tax imposed by this Article. An election under this section extends the time for payment
23 of the tax due in accordance with the extension elected under section 6166 of the Code.
24 Payments of tax are due under this section at the same time and in the same proportion to
25 the total amount of tax due as payments of federal estate tax under section 6166 of the
26 Code. Acceleration of payments under section 6166 of the Code accelerates the
27 payments due under this section.

28 **"§ 105-32.6. Estate tax is a lien on property in the estate.**

29 The tax imposed by this Article on an estate is a lien on the real property in the estate
30 and on the proceeds of the sale of the real property in the estate. The lien is extinguished
31 when one of the following occurs:

32 (1) The personal representative certifies to the clerk of court that no tax is
33 due on the estate because this Article does not require an estate tax
34 return to be filed for that estate.

35 (2) The Secretary issues a certificate stating that the tax liability of the
36 estate has been satisfied.

37 (3) For specific real property, when the Secretary issues a tax waiver for
38 that property.

39 (4) Ten years have elapsed since the date of the decedent's death.

40 **"§ 105-32.7. Generation-skipping transfer tax.**

41 (a) Tax. – A tax is imposed on a generation-skipping transfer that is subject to the
42 tax imposed by Chapter 13 of Subtitle B of the Code when any of the following apply:

1 (1) The original transferor is a resident of this State at the date of the
2 original transfer.

3 (2) The original transferor is not a resident of this State at the date of the
4 original transfer and the transfer includes any of the following:

5 a. Real or tangible personal property that is located in this State.

6 b. Intangible personal property that has a tax situs in this State.

7 (b) Amount. – The amount of the tax imposed by this section is the maximum
8 credit for state generation-skipping transfer taxes allowed under section 2604 of the
9 Code. If property in the transfer is located in a state other than North Carolina, the
10 amount of tax payable is the North Carolina percentage of the credit.

11 If the original transferor was a resident of this State at the date of the original transfer,
12 the North Carolina percentage is the net value of the property transferred that does not
13 have a tax situs in another state, divided by the net value of all property transferred. If
14 the original transferor was not a resident of this State at the date of the original transfer,
15 the North Carolina percentage is the net value of real property that is located in North
16 Carolina plus the net value of any personal property that has a tax situs in North Carolina,
17 divided by the net value of all property transferred, unless the original transferor's state of
18 residence uses a different formula to determine that state's percentage. In that
19 circumstance, the North Carolina percentage is the amount determined by the formula
20 used by the original transferor's state of residence.

21 The net value of property that is located in or has a tax situs in this State is its gross
22 value reduced by any debt secured by that property. The net value of all the property in a
23 transfer is its gross value reduced by any debts secured by the property.

24 (c) Payment. – The tax imposed by this section is due when a return is due. A
25 return is due the same date as the federal return for payment of the federal generation-
26 skipping transfer tax. The tax is payable by the person who is liable for the federal
27 generation-skipping transfer tax.

28 **"§ 105-32.8. Federal determination that changes the amount of tax payable to the**
29 **State.**

30 If the federal government corrects or otherwise determines the amount of the
31 maximum state death tax credit allowed an estate under section 6166 of the Code, the
32 personal representative must, within two years after being notified of the correction or
33 final determination by the federal government, file an estate tax return with the Secretary
34 reflecting the correct amount of tax payable under this Article. If the federal government
35 corrects or otherwise determines the amount of the maximum state generation-skipping
36 transfer tax credit allowed under section 2604 of the Code, the person who made the
37 transfer must, within two years after being notified of the correction or final
38 determination by the federal government, file a tax return with the Secretary reflecting
39 the correct amount of tax payable under this Article.

40 The Secretary must assess and collect any additional tax due as provided in Article 9
41 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this
42 Chapter. A person who fails to report a federal correction or determination in accordance

1 with this section is subject to the penalties in G.S. 105-236 and forfeits the right to any
2 refund due by reason of the determination."

3
4 PART VIII. EXCLUDE SEVERANCE PAY FROM INCOME TAX

5 Sec. 8.1. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

6 "(11) The amount paid to the taxpayer as severance wages as the result of
7 the closure of a manufacturing or processing plant, not to exceed a
8 maximum of thirty-five thousand dollars (\$35,000) for the taxable
9 year."

10 Sec. 8.2. G.S. 105-134.1 is amended by adding a new subdivision to read:

11 "(15a) Manufacturing and processing. – Defined in the Standard Industrial
12 Classification Manual issued by the United States Bureau of the
13 Census."

14
15 PART IX. EXPAND HOMESTEAD EXEMPTION

16 Sec. 9.1. G.S. 105-277.1 reads as rewritten:

17 "**§ 105-277.1. Property classified for taxation at reduced valuation.**

18 (a) Exclusion. – The following class of property is designated a special class of
19 property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be
20 assessed for taxation in accordance with this section. The first ~~fifteen thousand dollars~~
21 ~~(\$15,000)~~ twenty thousand dollars (\$20,000) in appraised value of a permanent residence
22 owned and occupied by a qualifying owner is excluded from taxation. A qualifying
23 owner is an owner who meets all of the following requirements as of January 1 preceding
24 the taxable year for which the benefit is claimed:

- 25 (1) Is at least 65 years of age or totally and permanently disabled.
26 (2) Has an income for the preceding calendar year of not more than eleven
27 thousand dollars (\$11,000).
28 (3) Is a North Carolina resident.

29 An otherwise qualifying owner does not lose the benefit of this exclusion because of a
30 temporary absence from his or her permanent residence for reasons of health, or because
31 of an extended absence while confined to a rest home or nursing home, so long as the
32 residence is unoccupied or occupied by the owner's spouse or other dependent.

33 (b) Definitions. – When used in this section, the following definitions shall apply:

- 34 (1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.
35 (1a) Income. – Adjusted gross income, as defined in section 62 of the Code,
36 plus all other moneys received from every source other than gifts or
37 inheritances received from a spouse, lineal ancestor, or lineal
38 descendant. For married applicants residing with their spouses, the
39 income of both spouses must be included, whether or not the property is
40 in both names.

- 41 (1b) Owner. – A person who holds legal or equitable title, whether
42 individually, as a tenant by the entirety, a joint tenant, or a tenant in
43 common, or as the holder of a life estate or an estate for the life of

1 another. A manufactured home jointly owned by husband and wife is
2 considered property held by the entirety.

3 (2) Repealed by Session Laws 1993, c. 360, s. 1.

4 (2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

5 (3) Permanent residence. – A person's legal residence. It includes the
6 dwelling, the dwelling site, not to exceed one acre, and related
7 improvements. The dwelling may be a single family residence, a unit in
8 a multi-family residential complex, or a manufactured home.

9 (4) Totally and permanently disabled. – A person is totally and permanently
10 disabled if the person has a physical or mental impairment that
11 substantially precludes him or her from obtaining gainful employment
12 and appears reasonably certain to continue without substantial
13 improvement throughout his or her life.

14 (c) Application. – An application for the exclusion provided by this section should
15 be filed during the regular listing period, but may be filed and must be accepted at any
16 time up to and through April 15 preceding the tax year for which the exclusion is
17 claimed. When property is owned by two or more persons other than husband and wife
18 and one or more of them qualifies for this exclusion, each owner shall apply separately
19 for his or her proportionate share of the exclusion.

20 (1) Elderly Applicants. – Persons 65 years of age or older may apply for
21 this exclusion by entering the appropriate information on a form made
22 available by the assessor under G.S. 105-282.1.

23 (2) Disabled Applicants. – Persons who are totally and permanently
24 disabled may apply for this exclusion by (i) entering the appropriate
25 information on a form made available by the assessor under G.S. 105-
26 282.1 and (ii) furnishing acceptable proof of their disability. The proof
27 shall be in the form of a certificate from a physician licensed to practice
28 medicine in North Carolina or from a governmental agency authorized
29 to determine qualification for disability benefits. After a disabled
30 applicant has qualified for this classification, he or she shall not be
31 required to furnish an additional certificate unless the applicant's
32 disability is reduced to the extent that the applicant could no longer be
33 certified for the taxation at reduced valuation.

34 (d) Multiple Ownership. – A permanent residence owned and occupied by
35 husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion
36 notwithstanding that only one of them meets the age or disability requirements of this
37 section. When a permanent residence is owned and occupied by two or more persons
38 other than husband and wife and one or more of the owners qualifies for this exclusion,
39 each qualifying owner is entitled to the full amount of the exclusion not to exceed his or
40 her proportionate share of the valuation of the property. No part of an exclusion available
41 to one co-owner may be claimed by any other co-owner and in no event may the total
42 exclusion allowed for a permanent residence exceed ~~fifteen thousand dollars (\$15,000).~~ the
43 exclusion amount provided in this section."

1 Sec. 9.2. G.S. 105-309(f) reads as rewritten:

2 "(f) The following information shall appear on each abstract or on an information
3 sheet distributed with the abstract. The abstract or sheet must include the address and
4 telephone number of the assessor below the notice required by this subsection. The
5 notice shall read as follows:

6
7 **'PROPERTY TAX RELIEF FOR ELDERLY AND**
8 **PERMANENTLY DISABLED PERSONS.**
9

10 North Carolina excludes from property taxes the first ~~fifteen thousand dollars (\$15,000)~~
11 twenty thousand dollars (\$20,000) in appraised value of a permanent residence owned
12 and occupied by North Carolina residents aged 65 or older or totally and permanently
13 disabled whose income does not exceed eleven thousand dollars (\$11,000). Income
14 means the owner's adjusted gross income as determined for federal income tax purposes,
15 plus all moneys received other than gifts or inheritances received from a spouse, lineal
16 ancestor or lineal descendant.

17 If you received this exclusion in (assessor insert previous year), you do not need to
18 apply again unless you have changed your permanent residence. If you received the
19 exclusion in (assessor insert previous year) and your income in (assessor insert previous
20 year) was above eleven thousand dollars (\$11,000), you must notify the assessor. If you
21 received the exclusion in (assessor insert previous year) because you were totally and
22 permanently disabled and you are no longer totally and permanently disabled, you must
23 notify the assessor. If the person receiving the exclusion in (assessor insert previous year)
24 has died, the person required by law to list the property must notify the assessor. Failure
25 to make any of the notices required by this paragraph before April 15 will result in
26 penalties and interest.

27 If you did not receive the exclusion in (assessor insert previous year) but are now
28 eligible, you may obtain a copy of an application from the assessor. It must be filed by
29 April 15."

30 Sec. 9.3. G.S. 105-277.1(a), as amended by Section 9.1 of this act, reads as
31 rewritten:

32 "(a) Exclusion. – The following class of property is designated a special class of
33 property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be
34 assessed for taxation in accordance with this section. The first twenty thousand dollars
35 (\$20,000) in appraised value of a permanent residence owned and occupied by a
36 qualifying owner is excluded from taxation. A qualifying owner is an owner who meets
37 all of the following requirements as of January 1 preceding the taxable year for which the
38 benefit is claimed:

- 39 (1) Is at least 65 years of age or totally and permanently disabled.
40 (2) Has an income for the preceding calendar year of not more than ~~eleven~~
41 thousand dollars (\$11,000)–twenty thousand dollars (\$20,000).
42 (3) Is a North Carolina resident.

1 An otherwise qualifying owner does not lose the benefit of this exclusion because of a
2 temporary absence from his or her permanent residence for reasons of health, or because
3 of an extended absence while confined to a rest home or nursing home, so long as the
4 residence is unoccupied or occupied by the owner's spouse or other dependent."

5 Sec. 9.4. G.S. 105-309(f), as amended by Section 9.2 of this act, reads as
6 rewritten:

7 "(f) The following information shall appear on each abstract or on an information
8 sheet distributed with the abstract. The abstract or sheet must include the address and
9 telephone number of the assessor below the notice required by this subsection. The
10 notice shall read as follows:

11
12 **'PROPERTY TAX RELIEF FOR ELDERLY AND**
13 **PERMANENTLY DISABLED PERSONS.**
14

15 North Carolina excludes from property taxes the first twenty thousand dollars
16 (\$20,000) in appraised value of a permanent residence owned and occupied by North
17 Carolina residents aged 65 or older or totally and permanently disabled whose income
18 does not exceed ~~eleven thousand dollars (\$11,000)~~ twenty thousand dollars (\$20,000).
19 Income means the owner's adjusted gross income as determined for federal income tax
20 purposes, plus all moneys received other than gifts or inheritances received from a
21 spouse, lineal ancestor or lineal descendant.

22 If you received this exclusion in (assessor insert previous year), you do not need to
23 apply again unless you have changed your permanent residence. If you received the
24 exclusion in (assessor insert previous year) and your income in (assessor insert previous
25 year) was above ~~eleven thousand dollars (\$11,000)~~ twenty thousand dollars (\$20,000), you
26 must notify the assessor. If you received the exclusion in (assessor insert previous year)
27 because you were totally and permanently disabled and you are no longer totally and
28 permanently disabled, you must notify the assessor. If the person receiving the exclusion
29 in (assessor insert previous year) has died, the person required by law to list the property
30 must notify the assessor. Failure to make any of the notices required by this paragraph
31 before April 15 will result in penalties and interest.

32 If you did not receive the exclusion in (assessor insert previous year) but are now
33 eligible, you may obtain a copy of an application from the assessor. It must be filed by
34 April 15."

35 Sec. 9.5. G.S. 105-277.1A reads as rewritten:

36 **"§ 105-277.1A. Property classified for taxation at reduced valuation; duties of tax**
37 **collectors; reimbursement of localities for portion of tax lost.**

38 (a) On September 1, 1990, the tax collector of each county and the tax collector of
39 each city shall furnish to the Secretary of Revenue a list containing the name and address
40 of each person who has qualified in that year for the exemption provided in G.S. 105-
41 277.1. The list shall also contain for each name the total amount of property exempted,
42 the tax rate the property is subject to, and the product obtained by multiplying those two

1 numbers by each other. The lists shall be accompanied by an affidavit attesting to the
2 accuracy of the list and shall all be on a form prescribed by the Secretary of Revenue.

3 (a1) On December 1, 1996, the tax collector of each county and the tax collector of
4 each city shall furnish to the Secretary of Revenue a list containing the name and address
5 of each taxpayer who has qualified in that year for the exemption provided in G.S. 105-
6 277.1. On the list, the tax collector shall provide for each name the amount of property
7 above fifteen thousand dollars (\$15,000) exempted, the tax rate the property is subject to,
8 and the product obtained by multiplying the two. The list shall be accompanied by an
9 affidavit attesting to the accuracy of the list and shall be on a form prescribed by the
10 Secretary of Revenue.

11 On December 1, 1997, the tax collector of each county and the tax collector of each
12 city shall furnish to the Secretary of Revenue two lists containing the name and address
13 of each taxpayer who has qualified in that year for the exemption provided in G.S. 105-
14 277.1. The first list shall include those taxpayers whose income was above eleven
15 thousand dollars (\$11,000) and the second list shall include those taxpayers whose
16 income was eleven thousand dollars (\$11,000) or less. On the first list, the tax collector
17 shall provide for each name the total amount of property exempted and on the second list,
18 the tax collector shall provide for each name the amount of property above fifteen
19 thousand dollars (\$15,000) exempted. On both lists, the tax collector shall provide the
20 tax rate the property is subject to and the product obtained by multiplying the tax rate by
21 the amount of property. The lists shall be accompanied by an affidavit attesting to the
22 accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

23 ~~(b) In addition to the list required by subsection (a) of this section, the county or~~
24 ~~city may provide a supplemental list on December 1.~~

25 (c) The Secretary of Revenue may, for cause, grant an extension for the
26 submission of ~~the a~~ list required by this section.

27 (d) Before May 31, 1991, the Secretary of Revenue shall distribute to the county
28 or city fifty percent (50%) of the total for the entire list provided pursuant to subsection
29 (a) of this section of the product obtained by multiplying the tax exemption for each
30 taxpayer times the applicable tax rate. Each year thereafter, on or before May 31, the
31 Secretary of Revenue shall pay to each county and city that was entitled to receive a
32 distribution under this ~~section~~ subsection in 1991 the amount it was entitled to receive in
33 1991.

34 (d1) Before May 31, 1997, the Secretary of Revenue shall distribute to the county
35 or city the total for the list provided pursuant to subsection (a1) of this section of the
36 product obtained by multiplying the applicable tax rate times the amount listed for each
37 taxpayer. Before May 31, 1998, the Secretary of Revenue shall distribute to the county
38 or city the total for both lists provided the preceding December 1 pursuant to subsection
39 (a1) of this section of the product obtained by multiplying the applicable tax rate times
40 the amount listed for each taxpayer. Each year thereafter, on or before May 31, the
41 Secretary of Revenue shall pay to each county and city the amount it received under this
42 subsection in 1998.

1 (e) Any funds received by any county or city pursuant to this section because the
2 county or city was collecting taxes for another unit of government or special district shall
3 be credited to the funds of that other unit or district in accordance with regulations issued
4 by the Local Government Commission.

5 (f) In order to pay for the reimbursement under this section and the cost to the
6 Department of Revenue of administering the reimbursement, the Secretary of Revenue
7 shall draw from collections received under Division I of Article 4 of this Chapter an
8 amount equal to the reimbursement and the cost of administration."
9

10 PART X. ALLOW INCENTIVES TO INCREASE CHARITABLE GIVING

11 Sec. 10.1. G.S. 105-164.13 is amended by adding a new subdivision to read:

12 "(42) Tangible personal property that is purchased by a retailer for resale or is
13 manufactured or purchased by a wholesale merchant for resale and then
14 withdrawn from inventory and donated by the retailer or wholesale
15 merchant to a nonprofit organization, contributions to which are
16 deductible as charitable contributions for federal income tax purposes."

17 Sec. 10.2. G.S. 105-164.13(13a) and (31b) are repealed.

18 Sec. 10.3. G.S. 105-130.9 reads as rewritten:

19 "§ 105-130.9. Contributions.

20 ~~Contributions shall be allowed as a deduction to the extent and in the manner provided as~~
21 ~~follows:~~ (a) North Carolina Corporations. – Corporations that do not allocate a part of
22 their total net income outside this State may deduct the following contributions to the
23 extent allowed in this section:

24 (1) Most Charitable Contributions. – Charitable contributions as defined in
25 section 170(c) of the Code, exclusive of other than contributions allowed
26 in subdivision (2) of this section, shall be allowed as a deduction to the
27 extent provided herein. – in this section. The amount allowed as a
28 deduction hereunder shall be limited to an amount not in excess of five
29 percent (5%) may not exceed ten percent (10%) of the corporation's net
30 income as computed without the benefit of this subdivision or
31 subdivision (2) of this section. Provided, that a carryover of contributions
32 shall not be allowed and that contributions made to North Carolina donees by
33 corporations allocating a part of their total net income outside this State shall
34 not be allowed under this subdivision, but shall be allowed under subdivision
35 (3) of this section.

36 (2) Contributions to North Carolina Governments and Educational
37 Institutions. – Contributions by any corporation to the following entities
38 shall be allowed as a deduction: the State of North Carolina, any of its
39 institutions, instrumentalities, or agencies, any county of this State, its
40 institutions, instrumentalities, or agencies, any municipality of this
41 State, its institutions, instrumentalities, or agencies, and contributions or
42 gifts by any corporation to any educational institutions located within
43 North Carolina, no part of the net earnings of which inures to the benefit

1 of any private stockholders or dividend. For the purpose of this
2 subdivision, the ~~words-term~~ 'educational institution' ~~shall mean~~ includes
3 only an educational institution ~~which-that~~ normally maintains a regular
4 faculty and curriculum and normally has a regularly organized body of
5 students in attendance at the place where the educational activities are
6 carried on. The ~~words "educational institution" shall be deemed to include all~~
7 ~~of such-term~~ includes all of the institution's departments, schools-schools,
8 and colleges, a group of "educational institutions" educational institutions,
9 and an organization (corporation, trust, foundation, association or other
10 entity)-organized and operated exclusively to receive, hold, invest-invest,
11 and administer property and to make expenditures to or for the sole
12 benefit of an "educational institution" or group of "educational institutions."
13 educational institution.

14 (3)

15 (b) Interstate Corporations. – Corporations allocating a part of their total net
16 income outside North Carolina under ~~the provisions of G.S. 105-130.4 shall may~~ deduct
17 from total income allocable to North Carolina contributions made to North Carolina
18 donees qualified under subdivisions (1) and (2) of this section subdivision (1) or (2) of
19 subsection (a) of this section or made through North Carolina offices or branches of other
20 donees qualified under the above-mentioned those subdivisions of this section; provided, such
21 subdivisions. The deduction for contributions made to North Carolina donees qualified
22 under subdivision (1) of this section shall be limited in amount to five percent (5%) may not
23 exceed ten percent (10%) of the total income allocated to North Carolina as computed
24 without the benefit of this deduction for contributions-subsection.

25 Corporations allocating a part of their total net income outside North Carolina may
26 deduct from net income before allocation under G.S. 105-130.4 contributions made to
27 other donees qualified under subdivision (1) of subsection (a) of this section. This
28 deduction may not exceed ten percent (10%) of the corporation's net income before
29 allocation under G.S. 105-130.4, as computed without the benefit of this subsection.

30 (c) Carryforward. – If a corporation's deductions allowed under subdivision (a)(1)
31 or subsection (b) of this section exceed the applicable percentage limitation, the
32 corporation may carry the excess forward for the succeeding five years to the extent the
33 amounts carried forward under this subsection plus the amounts deductible under
34 subdivision (a)(1) or subsection (b) of this section for each taxable year do not exceed the
35 percentage limitation for that taxable year. Amounts deductible under subdivision (a)(1)
36 or subsection (b) of this section for the current taxable year shall be taken into account
37 before amounts carried forward under this subsection.

38 (4) The

39 (d) Double Benefit Disallowed. – The amount of a contribution for which the
40 taxpayer claimed a tax credit pursuant to G.S. 105-130.34 shall not be eligible for a
41 deduction under this section. The amount of the credit claimed with respect to the
42 contribution is not, however, required to be added to income under G.S. 105-
43 130.5(a)(10)."

1 Sec. 10.4. G.S. 105-130.5(b)(5) reads as rewritten:

2 "(5) Contributions or gifts made by any corporation ~~within the income year to~~
3 the extent provided under G.S. 105-130.9."

4 Sec. 10.5. Division II of Article 4 of Chapter 105 of the General Statutes is
5 amended by adding a new section to read:

6 **"§ 105-151.26. Credit for charitable contributions by nonitemizers.**

7 A taxpayer who elects the standard deduction under section 63 of the Code for federal
8 tax purposes is allowed as a credit against the tax imposed by this Division an amount
9 equal to seven percent (7%) of the taxpayer's excess charitable contributions. The
10 taxpayer's excess charitable contributions are the amount by which the taxpayer's
11 charitable contributions for the taxable year that would have been deductible under
12 section 170 of the Code if the taxpayer had not elected the standard deduction exceed two
13 percent (2%) of the taxpayer's adjusted gross income as calculated under the Code.

14 No credit shall be allowed under this section for amounts deducted from gross income
15 in calculating taxable income under the Code or for contributions for which a credit was
16 claimed under G.S. 105-151.12 or G.S. 105-151.14. A nonresident or part-year resident
17 who claims the credit allowed by this section shall reduce the amount of the credit by
18 multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as
19 appropriate. The credit allowed under this section may not exceed the amount of tax
20 imposed by this Division for the taxable year reduced by the sum of all credits allowed,
21 except payments of tax made by or on behalf of the taxpayer."

22
23 PART XI. EFFECTIVE DATES

24 Sec. 12.1. This act does not affect the rights or liabilities of the State, a
25 taxpayer, or another person arising under a statute amended or repealed by this act before
26 its amendment or repeal; nor does it affect the right to any refund or credit of a tax that
27 would otherwise have been available under the amended or repealed statute before its
28 amendment or repeal.

29 Sec. 12.2. This act becomes effective as follows:

30 (1) Phase out State food tax. – Except as otherwise provided in Part I of this
31 act, Part I of this act becomes effective January 1, 1997, and applies to
32 sales made on or after that date. Section 1.1 of Part I of this act is
33 repealed effective January 1, 2000.

34 (2) Reduce corporate income tax. – Section 2.1 of Part II of this act is
35 effective for taxable years beginning on or after January 1, 1997.
36 Section 2.2 of Part II of this act becomes effective October 1, 1997, and
37 applies to remittances made on or after that date.

38 (3) Allow investment tax credit and research and development tax credit. –
39 Part III of this act is effective for taxable years beginning on or after
40 January 1, 1996, and applies to research and development expenditures
41 made on or after August 1, 1996, and to property placed in service on or
42 after August 1, 1996. Part III of this act is repealed effective for
43 research and development expenditures made on or after January 1,

- 1 2002, and for business property placed in service on or after January 1,
2 2002.
- 3 (4) Phase out soft drink tax. – Section 4.1 of Part IV of this act becomes
4 effective July 1, 1997. Section 4.2 of Part IV of this act becomes
5 effective July 1, 1999.
- 6 (5) Reduce sales tax on farm and industry fuel. – Part V of this act becomes
7 effective August 1, 1996, and applies to sales made on or after that date.
- 8 (6) Modify bundled transaction and free item sales tax. – Sections 6.2 and
9 6.3 of Part VI of this act are effective upon ratification. The remainder
10 of Part VI of this act becomes effective on the first day of the third
11 month following the ratification of this act and applies to sales made on
12 or after that date.
- 13 (7) Reduce inheritance and gift taxes. – Sections 7.1 through 7.4 of Part VII
14 of this act become effective January 1, 1997, and apply to the estates of
15 decedents dying on or after that date. Sections 7.5 and 7.6 of Part VII of
16 this act become effective August 1, 1996, and apply to the estates of
17 decedents dying on or after that date. Sections 7.7 and 7.8 of Part VII of
18 this act become effective January 1, 2001, and apply to the estates of
19 decedents dying on or after that date.
- 20 (8) Exclude severance pay from income tax. – Part VIII of this act is
21 effective for taxable years beginning on or after January 1, 1996.
- 22 (9) Expand homestead exemption. – Sections 9.1 and 9.2 of Part IX of this
23 act are effective for taxes imposed for taxable years beginning on or
24 after July 1, 1996. Sections 9.3 and 9.4 of Part IX of this act are
25 effective for taxes imposed for taxable years beginning on or after July
26 1, 1997. The remainder of Part IX of this act is effective upon
27 ratification. Notwithstanding the provisions of G.S. 105-277.1(c), an
28 application for the benefit provided in Sections 9.1 and 9.2 of this act
29 for the 1996-97 tax year shall be considered timely if it is filed on or
30 before October 1, 1996.
- 31 (10) Allow incentives to increase charitable giving. – Sections 10.1 and 10.2
32 of Part X of this act are effective upon ratification. The remainder of
33 Part X of this act is effective for taxable years beginning on or after
34 January 1, 1997.
- 35 (11) Remainder. – The remainder of this act is effective upon ratification.