

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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**HOUSE BILL 748\***  
**Committee Substitute Favorable 11/13/01**  
**Senate Finance Committee Substitute Adopted 11/20/01**  
**Fourth Edition Engrossed 11/29/01**

Short Title: Vehicle Transition/Premiums Tax/Prepared Food.

(Public)

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Sponsors:

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Referred to:

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March 22, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO PROVIDE TRANSITIONAL PROVISIONS FOR THE REPEAL OF  
3 THE HIGHWAY USE TAX CAP ON NONCOMMERCIAL MOTOR VEHICLES,  
4 TO TEMPORARILY MODIFY THE TAXATION OF HMOs AND MEDICAL  
5 SERVICE CORPORATIONS, AND TO CLARIFY THE SALES TAX  
6 EXEMPTION FOR PREPARED FOOD.

7 The General Assembly of North Carolina enacts:

8       **SECTION 1.(a)** Section 34.24(f) of S.L. 2001-424 reads as rewritten:

9       **"SECTION 34.24(f)** Subsection (c) of this section is effective on and after July 1,  
10 2001. The remainder of this section becomes effective October 1, 2001, and applies to  
11 certificates of title issued on or after that date.

12       Subsection (a) of this section does not apply to a certificate of title issued as the  
13 result of a purchase of a vehicle if the purchase was made before October 1, 2001, or  
14 was made pursuant to a contract entered into or awarded before October 1, 2001."

15       **SECTION 1.(b)** This section is effective when it becomes law.

16       **SECTION 2.(a)** Subsections (d) and (e) of Section 34.22 of S.L. 2001-424  
17 are repealed.

18       **SECTION 2.(b)** G.S. 105-228.5(d)(5), as amended by subsection (a) of  
19 Section 34.22 of S.L. 2001-424, reads as rewritten:

20       "(5) Article 65 Corporations. – The tax rate to be applied to gross  
21 premiums and/or gross collections from membership dues, exclusive  
22 of receipts from cost plus plans, received by Article 65 corporations is  
23 ~~eight hundred thirty three thousandths percent (0.833%).~~ one and  
24 one-tenth percent (1.1%). The net proceeds shall be credited to the  
25 General Fund."

26       **SECTION 2.(c)** G.S. 105-228.5(d)(6), as enacted by subsection (a) of  
27 Section 34.22 of S.L. 2001-424, reads as rewritten:

1           "(6) Health Maintenance Organizations. – The tax rate to be applied to  
2           gross premiums on insurance contracts issued by health maintenance  
3           organizations is ~~eight hundred thirty three thousandths percent~~  
4           ~~(0.833%)~~. one and one-tenth percent (1.1%). The net proceeds shall be  
5           credited to the General Fund."

6           **SECTION 2.(d)** Subsection (f) of Section 34.22 of S.L. 2001-424 reads as  
7           rewritten:

8           "**SECTION 34.22.(f)** ~~Subsections (d) and (e) of this section become effective for~~  
9           ~~taxable years beginning on or after January 1, 2003. The remainder of this~~This section  
10          is effective for taxable years beginning on or after January 1, ~~2002,~~ 2003."

11          **SECTION 2.(e)** Notwithstanding the provisions of G.S. 105-228.5(f), the  
12          following provisions apply to Article 65 Corporations and Health Maintenance  
13          Organizations, as defined in G.S. 105-228.3, for the 2003 taxable year in lieu of the  
14          provisions of G.S. 105-228.5(f):

15          Article 65 Corporations and Health Maintenance Organizations that are  
16          subject to the tax imposed by G.S. 105-228.5 and have an estimated premium tax  
17          liability for the 2003 taxable year, not including the additional local fire and lightning  
18          tax, of ten thousand dollars (\$10,000) or more for business done in North Carolina shall  
19          remit two estimated tax payments with each payment equal to fifty percent (50%) of the  
20          taxpayer's estimated premium tax liability for the 2003 taxable year. The first estimated  
21          payment is due on or before April 15, 2003, and the second estimated payment is due on  
22          or before June 15, 2003. The taxpayer must remit the balance by the following March  
23          15 in the same manner provided in G.S. 105-228.5(e) for annual returns.

24          An underpayment of an estimated payment required by this subsection bears  
25          interest at the rate established under G.S. 105-241.1(i). Any overpayment bears interest  
26          as provided in G.S. 105-266(b) and, together with the interest, must be credited to the  
27          taxpayer and applied against the taxes imposed upon the company under G.S.  
28          105-228.5.

29          The penalties provided in Article 9 of Chapter 105 of the General Statutes  
30          apply to the estimated tax payments required by this subsection.

31          **SECTION 2.(f)** G.S. 105-228.5(d)(5), as amended by subsection (a) of  
32          Section 34.22 of S.L. 2001-424 and by this section, reads as rewritten:

33          "(5) Article 65 Corporations. – The tax rate to be applied to gross  
34          premiums and/or gross collections from membership dues, exclusive  
35          of receipts from cost plus plans, received by Article 65 corporations is  
36          ~~one and one-tenth percent (1.1%)~~. percent (1%). The net proceeds shall  
37          be credited to the General Fund."

38          **SECTION 2.(g)** G.S. 105-228.5(d)(6), as enacted by subsection (a) of  
39          Section 34.22 of S.L. 2001-424 and as amended by this section, reads as rewritten:

40          "(6) Health Maintenance Organizations. – The tax rate to be applied to  
41          gross premiums on insurance contracts issued by health maintenance

1 organizations is one ~~and one tenth percent (1.1%).~~ percent (1%). The  
2 net proceeds shall be credited to the General Fund."

3 **SECTION 2.(h)** Subsections (a) and (d) of this section are effective when  
4 they become law. Subsections (f) and (g) of this section become effective for taxable  
5 years beginning on or after January 1, 2004. The remainder of this section is effective  
6 for taxable years beginning on or after January 1, 2003.

7 **SECTION 3.(a)** G.S. 105-164.3(5a), as enacted by S.L. 2001-347, reads as  
8 rewritten:

9 "(5a) Food. – Substances that are sold for ingestion or chewing by humans  
10 and are consumed for their taste or nutritional value. The substances  
11 may be in liquid, concentrated, solid, frozen, dried, or dehydrated  
12 form. The term does not include ~~alcoholic beverages, as defined in~~  
13 ~~G.S. 105-113.68, or tobacco products, as defined in G.S. 105-113.4."~~

14 **SECTION 3.(b)** G.S. 105-164.13B, as amended by S.L. 2001-347, reads as  
15 rewritten:

16 "**§ 105-164.13B. Food exempt from tax.**

17 ~~Except as provided in this section, the taxes imposed by this Article do not apply to~~  
18 ~~food. The tax does apply to all of the following:~~

- 19 ~~(1) Candy not sold for home consumption.~~
- 20 ~~(2) Dietary supplements.~~
- 21 ~~(3) Prepared food not sold for home consumption.~~
- 22 ~~(4) Food sold through a vending machine.~~
- 23 ~~(5) Soft drinks not sold for home consumption.~~

24 Food is exempt from the taxes imposed by this Article, except as follows:

- 25 (1) The following items are subject to tax:
  - 26 a. Alcoholic beverages, as defined in G.S. 105-113.68.
  - 27 b. Dietary supplements.
  - 28 c. Food sold through a vending machine.
- 29 (2) The following items are subject to tax, unless the items are purchased  
30 for home consumption and would be exempt if purchased under the  
31 Federal Food Stamp Program, 7 U.S.C. § 51:
  - 32 a. Candy.
  - 33 b. Prepared food.
  - 34 c. Soft drinks."

35 **SECTION 3.(b)** This section becomes effective January 1, 2002, and applies  
36 to sales made on or after that date.