

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1453*

Short Title: Revenue Laws Tech. & Motor Fuel Tax Changes. (Public)

Sponsors: Senators Hartsell, Clodfelter, Dalton, Hoyle, and Kerr.

Referred to: Finance.

May 17, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE
3 CHANGES TO THE REVENUE LAWS AND RELATED STATUTES AND TO
4 IMPROVE THE COLLECTION AND ADMINISTRATION OF THE MOTOR
5 FUEL TAX.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 105-113.82(a) reads as rewritten:

8 "§ 105-113.82. **Distribution of part of beer and wine taxes.**

9 (a) Amount, Method. – The Secretary shall distribute annually the following
10 percentages of the net amount of excise taxes collected on the sale of malt beverages
11 and wine during the preceding 12-month period ending March 31, less the amount of
12 the net proceeds credited to the Department of ~~Agriculture and Consumer Services~~
13 Commerce under G.S. 105-113.81A, to the counties and cities in which the retail sale of
14 these beverages is authorized in the entire county or city:

- 15 (1) Of the tax on malt beverages levied under G.S. 105-113.80(a),
16 twenty-three and three-fourths percent (23¾%);
17 (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b),
18 sixty-two percent (62%); and
19 (3) Of the tax on fortified wine levied under G.S. 105-113.80(b),
20 twenty-two percent (22%).

21 If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail
22 in both a county and a city located in the county, both the county and city shall receive a
23 portion of the amount distributed, that portion to be determined on the basis of
24 population. If one of these beverages may be licensed to be sold at retail in a city
25 located in a county in which the sale of the beverage is otherwise prohibited, only the
26 city shall receive a portion of the amount distributed, that portion to be determined on
27 the basis of population. The amounts distributed under subdivisions (1), (2), and (3)
28 shall be computed separately."

29 SECTION 2. G.S. 105-122(d) reads as rewritten:

1 "(d) After determining the proportion of its total capital stock, surplus and
2 undivided profits as set out in subsection (c) of this section, which amount ~~so~~
3 ~~determined shall in no case not~~ be less than fifty-five percent (55%) of the appraised
4 value as determined for ad valorem taxation of all the real and tangible personal
5 property in this State of each ~~such~~ corporation ~~plus the total appraised value of~~
6 ~~intangible property returned for taxation of intangible personal property as herein~~
7 ~~specified~~ nor less than its total actual investment in tangible property in this State, every
8 corporation taxed under this section shall annually pay to the Secretary of Revenue, at
9 the time the report and statement are due, a franchise or privilege ~~tax, which is hereby~~
10 ~~levied tax~~ at the rate of one dollar and fifty cents (\$1.50) per one thousand dollars
11 (\$1,000) of the total amount of capital stock, surplus and undivided profits as ~~herein~~
12 ~~provided. provided in this section.~~ The tax imposed in this section shall ~~in no case not~~
13 be less than thirty-five dollars (\$35.00) and shall be for the privilege of carrying on,
14 doing business, and/or the continuance of articles of incorporation or domestication of
15 each ~~such~~ corporation in this State. Appraised value of tangible property including real
16 estate ~~shall be is~~ the ad valorem valuation for the calendar year next preceding the due
17 date of the franchise tax return. ~~Appraised value of intangible property shall be the total~~
18 ~~gross valuation required to be reported for intangible tax purposes on April 15~~
19 ~~coincident with or next preceding the due date of the franchise tax return.~~ The term
20 "total actual investment in tangible property" as used in this section ~~shall be construed~~
21 ~~to mean means~~ the total original purchase price or consideration to the reporting
22 taxpayer of its tangible properties, including real estate, in this State plus additions and
23 improvements thereto less reserve for depreciation as permitted for income tax
24 purposes, and also less any indebtedness incurred and existing by virtue of the purchase
25 of any real estate and any permanent improvements made thereon. In computing "total
26 actual investment in tangible personal property" there shall also be deducted reserves
27 for the entire cost of any air-cleaning device or sewage or waste treatment plant,
28 including waste lagoons, and pollution abatement equipment purchased or constructed
29 and installed which reduces the amount of air or water pollution resulting from the
30 emission of air contaminants or the discharge of sewage and industrial wastes or other
31 polluting materials or substances into the outdoor atmosphere or into streams, lakes, or
32 rivers, upon condition that the corporation claiming ~~such this~~ deduction shall furnish to
33 the Secretary a certificate from the Department of Environment and Natural Resources
34 or from a local air pollution control program for air-cleaning devices located in an area
35 where the Environmental Management Commission has certified a local air pollution
36 control program pursuant to G.S. 143-215.112 certifying that said Department or local
37 air pollution control program has found as a fact that the air-cleaning device, waste
38 treatment plant or pollution abatement equipment purchased or constructed and installed
39 as above described has actually been constructed and installed and that ~~such the~~ device,
40 plant or equipment complies with the requirements of the Environmental Management
41 Commission or local air pollution control program with respect to ~~such the~~ devices,
42 plants or equipment, that ~~such the~~ device, plant or equipment is being effectively
43 operated in accordance with the terms and conditions set forth in the permit, certificate
44 of approval, or other document of approval issued by the Environmental Management

1 Commission or local air pollution control program and that the primary purpose thereof
 2 is to reduce air or water pollution resulting from the emission of air contaminants or the
 3 discharge of sewage and waste and not merely incidental to other purposes and
 4 functions. The cost of constructing facilities of any private or public utility built for the
 5 purpose of providing sewer service to residential and outlying areas ~~shall be~~ is treated as
 6 deductible for the purposes of this section; the deductible liability allowed by this
 7 section shall apply only with respect to ~~such~~ pollution abatement plants or equipment
 8 constructed or installed on or after January 1, 1955."

9 **SECTION 3.(a)** G.S. 105-130.2 reads as rewritten:

10 "..."

11 (4a) Gross income. – Defined in section 61 of the Code.

12 ~~(4a)~~(4b) Income year. – The calendar year or the fiscal year upon the basis of
 13 which the net income is computed under this Part. If no fiscal year has
 14 been established, the income year is the calendar year. In the case of a
 15 return made for a fractional part of a year under the provisions of this
 16 Part or under rules adopted by the Secretary, the income year is the
 17 period for which the return is made.

18 "..."

19 **SECTION 3.(b)** G.S. 105-114(b)(4) reads as rewritten:

20 "(4) Income year. – Defined in G.S. ~~105-130.2(5)~~.105-130.2(4b)."

21 **SECTION 4.(a)** G.S. 105-130.47(a) reads as rewritten:

22 "(a) Definitions. – The following definitions apply in this section:

23 (1) Highly compensated individual. – An individual who receives
 24 compensation in excess of one million dollars (\$1,000,000) for
 25 services with respect to a single production.

26 (2) Live sporting event. – A scheduled sporting competition, game, or race
 27 that is not originated by a production company, but originated solely
 28 by an amateur, collegiate, or professional organization, institution, or
 29 association for live or tape-delayed television or satellite broadcast. A
 30 live sporting event shall not include commercial advertising, an
 31 episodic television series, a television pilot, music video, motion
 32 picture, or documentary production where any sporting events are
 33 presented through archived historical footage or similar footage
 34 depicting earlier live sporting events that originated more than thirty
 35 days before the time of such usage.

36 (3) Production company. – Defined in G.S. 105-164.3.

37 (4) Qualifying expenses. – The sum of the total amount spent in this State
 38 for the following by a production company in connection with a
 39 production:

40 a. Goods and services leased or purchased by the production
 41 company. For goods with a purchase price of twenty-five
 42 thousand dollars (\$25,000) or more, the amount included in
 43 qualifying expenses is the purchase price less the fair market
 44 value of the good at the time the production is completed.

- 1 b. Compensation and wages paid by the production company,
2 other than amounts paid to a highly compensated individual,
3 either directly or indirectly, on which ~~the production company~~
4 ~~remitted~~-withholding payments are remitted to the Department
5 of Revenue under Article 4A of this Chapter."

6 **SECTION 4.(b)** G.S. 105-151.29(a) reads as rewritten:

7 "(a) Definitions. – The following definitions apply in this section:

- 8 (1) Highly compensated individual. – An individual who receives
9 compensation in excess of one million dollars (\$1,000,000) for
10 services with respect to a single production.
11 (2) Live sporting event. – A scheduled sporting competition, game, or race
12 that is not originated by a production company, but originated solely
13 by an amateur, collegiate, or professional organization, institution, or
14 association for live or tape-delayed television or satellite broadcast. A
15 live sporting event shall not include commercial advertising, an
16 episodic television series, a television pilot, music video, motion
17 picture, or documentary production where any sporting events are
18 presented through archived historical footage or similar footage
19 depicting earlier live sporting events that originated more than thirty
20 days before the time of such usage.
21 (3) Production company. – Defined in G.S. 105-164.3.
22 (4) Qualifying expenses. – The sum of the total amount spent in this State
23 for the following by a production company in connection with a
24 production:

- 25 a. Goods and services leased or purchased by the production
26 company. For goods with a purchase price of twenty-five
27 thousand dollars (\$25,000) or more, the amount included in
28 qualifying expenses is the purchase price less the fair market
29 value of the good at the time the production is completed.
30 b. Compensation and wages paid by the production company,
31 other than amounts paid to a highly compensated individual,
32 either directly or indirectly, on which ~~the production company~~
33 ~~remitted~~-withholding payments are remitted to the Department
34 of Revenue under Article 4A of this Chapter."

35 **SECTION 4.(c)** G.S. 105-259(b) reads as rewritten:

36 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
37 who has access to tax information in the course of service to or employment by the State
38 may not disclose the information to any other person unless the disclosure is made for
39 one of the following purposes:

- 40 (32) ~~To provide the report required under G.S. 105-164.14(c) to the~~
41 ~~Department of Public Instruction and the Fiscal Research Division of~~
42 ~~the General Assembly.~~

43 ...

1 (36) To furnish to a taxpayer claiming a credit under G.S. 105-130.47 or
2 G.S. 105-151.29 information from a third party to the extent the
3 information was used by the Secretary to adjust the amount of the
4 credit claimed by the taxpayer."

5 **SECTION 5.(a)** G.S. 105-164.3(49) reads as rewritten:

6 "(49) Use. – Means and includes the exercise of any right or power or
7 dominion whatsoever over tangible personal property or over any
8 service subject to tax under this Article by a purchaser thereof and
9 includes, but is not limited to, any withdrawal from storage,
10 distribution, installation, affixation to real or personal property, or
11 exhaustion or consumption of tangible personal property or any service
12 subject to tax under this Article by the owner or purchaser thereof, but
13 does not include the sale of tangible personal property or of any
14 service subject to tax under this Article in the regular course of
15 business."

16 **SECTION 5.(b)** G.S. 105-164.16(a) reads as rewritten:

17 "(a) General. – Sales and use taxes are payable quarterly, monthly, or
18 semimonthly as specified in this section. A return is due quarterly or monthly as
19 specified in this section. A return must be filed with the Secretary on a form prescribed
20 by the Secretary and in the manner required by the Secretary. A return must be signed
21 by the taxpayer or the taxpayer's agent.

22 A sales tax return must state the taxpayer's gross sales for the reporting period, the
23 amount and type of sales made in the period that are exempt from tax under
24 G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any
25 other information required by the Secretary. A use tax return must state the purchase
26 price of tangible personal property or services sourced to this State that ~~was~~were
27 purchased or received during the reporting period and ~~is~~are subject to tax under
28 G.S. 105-164.6, the amount of tax due, and any other information required by the
29 Secretary. Returns that do not contain the required information will not be accepted.
30 When an unacceptable return is submitted, the Secretary will require a corrected return
31 to be filed."

32 **SECTION 6.** G.S. 105-164.6(c) reads as rewritten:

33 "(c) Credit. – A credit is allowed against the tax imposed by this section for the
34 following:

35 (1) The amount of sales or use tax paid on the item to this State. Payment
36 of sales or use tax to this State on an item by a retailer extinguishes the
37 liability of a purchaser for the tax imposed under this section.

38 (2) The amount of sales or use tax paid on the item to another state. If the
39 amount of tax paid to the other state is less than the amount of tax
40 imposed by this section, the difference is payable to this State. The
41 credit allowed by this subdivision does not apply to tax paid to a state
42 that does not grant a similar credit for sales or use taxes paid in North
43 Carolina."

44 **SECTION 7.** G.S. 105-164.7 reads as rewritten:

1 **"§ 105-164.7. Sales tax part of purchase price.**

2 Every retailer subject to the tax levied in G.S. 105-164.4 shall at the time of selling
3 or delivering or taking an order for the sale or delivery of taxable tangible personal
4 property or a taxable service, or collecting the sales price, add to the sales price the
5 amount of tax due. The tax constitutes a part of the purchase price, is a debt from the
6 purchaser to the retailer until paid, and is recoverable at law in the same manner as other
7 debts. The tax must be stated and charged separately from the sales price, shown
8 separately on the retailer's sales records, and paid by the purchaser to the retailer as
9 trustee for and on account of the State. The retailer is liable for the collection of the tax
10 and for its payment to the Secretary. The retailer's failure to charge the tax to or to
11 collect the tax from the purchaser does not affect this liability. It is the intent of this
12 Article that the tax be added to the sales price of tangible personal property and services
13 when sold at retail and be borne and passed on to the customer, instead of being borne
14 by the retailer."

15 **SECTION 8.(a)** G.S. 105-164.13(1a) reads as rewritten:

16 "(1a) Sales of the following to a farmer, as defined in subdivision (1) of this
17 section:

18 a. ~~A container sold to a farmer, as defined in subdivision (1) of~~
19 ~~this section,~~ used for a purpose set out in ~~that~~ subdivision (1) of
20 this section or in packaging and transporting the farmer's
21 product for sale.

22 b. A grain, feed, or soybean storage facility, and parts and
23 accessories attached to the facility."

24 **SECTION 8.(b)** G.S. 105-164.13(4e) is repealed.

25 **SECTION 9.** G.S. 105-164.14(k) reads as rewritten:

26 "(k) Reports. – The Department of Revenue shall publish by May 1 of each year
27 the following information itemized by taxpayer for the 12-month period ending the
28 preceding December 31:

29 (1) The number of taxpayers claiming a refund allowed in subsections
30 (a1), (g), (h), (i), and (j)(j), and (l) of this section.

31 (2) The total amount of purchases with respect to which refunds were
32 claimed.

33 (3) The total cost to the General Fund of the refunds claimed."

34 **SECTION 10.** G.S. 105-164.15A reads as rewritten:

35 **"§ 105-164.15A. Effective date of rate changes for services.**

36 The effective date of a rate change for a service taxable under this Article is
37 administered as follows:

38 (1) For a rate increase, the new rate applies to the first billing period that
39 starts on or after the effective date. For a service billed after it is
40 provided, the first billing period starts on the effective date. For a
41 service billed before it is provided, the first billing period starts on the
42 first day of the month after the effective date.

43 (2) For a rate decrease, the new rate applies to bills rendered on or after
44 the effective date."

1 **SECTION 11.** G.S. 105-187.52 reads as rewritten:

2 "**§ 105-187.52. Administration.**

3 (a) Administration. – The privilege taxes imposed by this Article are in addition
4 to the State use tax. Except as otherwise provided in this Article, the collection and
5 administration of these taxes is the same as the State use tax imposed by Article 5 of
6 this Chapter.

7 (b) Credit. – A credit is allowed against the tax imposed by this Article for the
8 amount of a sales or use tax, privilege or excise tax, or substantially equivalent tax paid
9 to another state. The credit allowed by this subsection does not apply to tax paid to
10 another state that does not grant a similar credit for the privilege tax paid in North
11 Carolina."

12 **SECTION 12.(a)** G.S. 105-233 and G.S. 105-234 are repealed.

13 **SECTION 12.(b)** G.S. 105-236 reads as rewritten:

14 "**§ 105-236. Penalties.**~~Penalties; situs of violations; penalty disposition.~~

15 (a) Penalties. – ~~Penalties assessed by the Secretary under this Subchapter are~~
16 ~~assessed as an additional tax. The clear proceeds of any civil penalties levied pursuant~~
17 ~~to subdivisions (3), (4), (5)a., and (6) of this section shall be remitted to the Civil~~
18 ~~Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Except as otherwise~~
19 ~~provided by law, and subject to the provisions of G.S. 105-237, the following penalties~~
20 ~~shall be applicable:~~The following civil penalties and criminal offenses apply:

21 (1) Penalty for Bad Checks. – When the bank upon which any uncertified
22 check tendered to the Department of Revenue in payment of any
23 obligation due to the Department returns the check because of
24 insufficient funds or the nonexistence of an account of the drawer, the
25 Secretary shall assess a penalty equal to ten percent (10%) of the
26 check, subject to a minimum of one dollar (\$1.00) and a maximum of
27 one thousand dollars (\$1,000). This penalty does not apply if the
28 Secretary finds that, when the check was presented for payment, the
29 drawer of the check had sufficient funds in an account at a financial
30 institution ~~in this State~~ to pay the check and, by inadvertence, the
31 drawer of the check failed to draw the check on the account that had
32 sufficient funds.

33 ...

34 (11) ~~Any violation of Subchapter I, V, or VIII of this Chapter or of Article~~
35 ~~3 of Chapter 119 of the General Statutes is considered an act~~
36 ~~committed in part at the office of the Secretary in Raleigh. The~~
37 ~~certificate of the Secretary that a tax has not been paid, a return has not~~
38 ~~been filed, or information has not been supplied, as required by law, is~~
39 ~~prima facie evidence that the tax has not been paid, the return has not~~
40 ~~been filed, or the information has not been supplied.~~

41 (12) Repealed by Session Laws 1991, c. 45, s. 27.

42 (b) Situs. – Violation of a tax law is considered an act committed in part at the
43 office of the Secretary in Raleigh. The certificate of the Secretary that a tax has not been
44 paid, a return has not been filed, or information has not been supplied, as required by

1 law, is prima facie evidence that the tax has not been paid, the return has not been filed,
2 or the information has not been supplied.

3 (c) Penalty Disposition. – Civil penalties assessed by the Secretary are assessed
4 as an additional tax. The clear proceeds of civil penalties assessed by the Secretary must
5 be credited to the Civil Penalty and Forfeiture Fund, established in G.S. 115C-457.1."

6 **SECTION 12.(c)** G.S. 105-449.48 and G.S. 105-449.127 are repealed.

7 **SECTION 12.(d)** G.S. 105-449.49 reads as rewritten:

8 **"§ 105-449.49. Temporary permits.**

9 (a) Issuance. – Upon application to the Secretary and payment of a fee of fifty
10 dollars (\$50.00), a motor carrier may obtain a temporary permit authorizing the carrier
11 to operate a vehicle in the State for three days without registering the vehicle in
12 accordance with G.S. ~~105-449.47 for not more than three days.~~ 105-449.47. A motor
13 carrier to whom a temporary permit has been issued may elect not to report its operation
14 of the vehicle during the three-day period. Fees collected under this subsection are
15 credited to the Highway Fund.

16 (b) Refusal. – The Secretary may refuse to issue a temporary permit to any of the
17 following:

18 (1) A motor carrier whose registration has been withheld or revoked.

19 (2) A motor carrier who the Secretary determines is evading payment of
20 tax through the successive purchase of temporary permits."

21 **SECTION 13.(a)** G.S. 105-449.65(b) reads as rewritten:

22 "(b) Multiple Activity. – A person who is engaged in more than one activity for
23 which a license is required must have a separate license for each activity, unless this
24 subsection provides otherwise. A person who is licensed as a supplier is considered to
25 have a license as a distributor. A person who is licensed as an occasional importer or a
26 tank wagon importer is not required to obtain a separate license as a distributor unless
27 the importer is also purchasing motor fuel, at the terminal rack, from an elective or
28 permissive supplier who is authorized to collect and remit the tax to the State. A person
29 who is licensed as a distributor is not required to obtain a separate license as an importer
30 if the distributor acquires fuel for import only from an elective supplier or a permissive
31 supplier and is not required to obtain a separate license as an exporter. A person who is
32 licensed as a distributor or a blender ~~is not required to obtain a separate license and who~~
33 transports fuel is considered to be licensed as a motor fuel transporter if the distributor
34 ~~or blender does not transport motor fuel for others for hire.transporter.~~"

35 **SECTION 13.(b)** G.S. 105-449.101 reads as rewritten:

36 **"§ 105-449.101. Motor fuel transporter to file informational return showing**
37 **deliveries of imported or exported motor fuel.**

38 (a) Requirement. – A motor fuel transporter ~~that imports motor fuel into this~~
39 ~~State or exports motor fuel from this State~~ must file a monthly informational return with
40 the Secretary that shows motor fuel ~~received or delivered for import or export~~
41 transported in this State by the transporter during the month. ~~This requirement does not~~
42 ~~apply to a distributor that is not required to be licensed as a motor fuel transporter.~~

43 (b) Content. – The return required by this section is due ~~by the 25th day of the~~
44 ~~month following the month covered by the return.~~ on the same date as a monthly return

1 due under G.S. 105-449.90. The return must contain the following information and any
2 other information required by the Secretary:

- 3 (1) The name and address of each person from whom the transporter
4 received motor fuel outside the State for delivery in the State, the
5 amount of motor fuel received, the date the motor fuel was received,
6 and the destination state of the fuel.
- 7 (2) The name and address of each person from whom the transporter
8 received motor fuel in the State for delivery outside the State, the
9 amount of motor fuel delivered, the date the motor fuel was delivered,
10 and the destination state of the fuel.
- 11 (3) The name and address of each person from whom the transporter
12 received motor fuel in the State for delivery in the State, the amount of
13 motor fuel received, the date the motor fuel was received, and the
14 destination state of the fuel."

15 **SECTION 14.(a)** G.S. 105-449.60 is amended by adding a new subdivision
16 to read:

17 "**§ 105-449.60. Definitions.**

18 The following definitions apply in this Article:

19 ...

- 20 (10a) Exempt card or code. – A credit card or an access code that enables the
21 person to whom the card or code is issued to buy motor fuel at retail
22 without paying the motor fuel excise tax on the fuel."

23 **SECTION 14.(b)** G.S. 105-449.88A reads as rewritten:

24 "**§ 105-449.88A. Liability for tax due on motor fuel designated as exempt by the**
25 **use of cards or codes.**

26 (a) ~~Exempt Cards at Rack.~~—When a licensed distributor or licensed importer
27 removes motor fuel from a terminal by means of an exempt card or exempt access code
28 issued by the supplier, the distributor or importer represents that the fuel removed will
29 be resold to a governmental unit that is exempt from the tax. A supplier may rely on this
30 representation. A licensed distributor or licensed importer that does not resell motor fuel
31 removed from a terminal by means of an exempt card or exempt access code to an
32 exempt governmental unit is liable for any tax due on the fuel.

33 (b) ~~Exempt Cards at Retail. Card or Code.~~—An "exempt card or code" is a credit
34 card or an access code that enables the person to whom the card or code is issued to buy
35 motor fuel at retail without paying the motor fuel excise tax on the fuel. An entity that
36 issues an exempt card or code has a duty to determine if the person to whom it is issued
37 is exempt from the motor fuel excise tax. An entity that issues an exempt card or code to
38 a person who is not exempt from tax is liable for tax due on motor fuel the person
39 purchases at retail by use of the exempt card or code. If a supplier authorizes another
40 entity to issue an exempt card or code to a person who is not exempt from tax, the
41 supplier and the entity that issued the card are jointly and severally liable for tax due on
42 motor fuel the person purchases at retail by use of the exempt card or code.

43 (c) ~~Card Holder.~~ – A person to whom an exempt card or ~~exempt access card code~~
44 is issued ~~for use at a terminal or at retail~~ is liable for any tax due on fuel purchased with

1 the card or code for a purpose that is not exempt. A person who misuses an exempt card
2 or code by purchasing fuel with the card or code for a purpose that is not exempt is
3 liable for the tax due on the fuel."

4 **SECTION 14.(c)** G..S. 105-449.90(c) is repealed.

5 **SECTION 14.(d)** G.S. 105-449.93 reads as rewritten:

6 "**§ 105-449.93. Exempt sale deduction and percentage Percentage discount for**
7 **licensed distributors and some licensed importers.**

8 (a) ~~Deduction.~~—A license holder listed below may deduct from the amount of
9 tax otherwise payable to a supplier the amount calculated on motor fuel the license
10 holder received from the supplier and resold to a governmental unit whose purchases of
11 motor fuel are exempt from the tax under G.S. 105-449.88 if, when removing the fuel,
12 the license holder used an access card or code specified by the supplier to notify the
13 supplier of the license holder's intent to resell the fuel in an exempt sale:

14 (1) A licensed distributor.

15 (2) A licensed importer that removed the motor fuel from a terminal rack
16 of a permissive or an elective supplier.

17 (b) Percentage Discount. – A licensed distributor that pays the tax due a supplier
18 by the date the supplier must pay the tax to the State may deduct from the amount due a
19 discount of one percent (1%) of the amount of tax payable. A licensed importer that
20 removes motor fuel from a terminal rack of a permissive or an elective supplier and that
21 pays the tax due the supplier by the date the supplier must pay the tax to the State may
22 deduct from the amount due a discount of the same amount allowed a licensed
23 distributor. The discount covers the expense of furnishing a bond and losses due to
24 shrinkage or evaporation. A supplier may not directly or indirectly deny this discount to
25 a licensed distributor or licensed importer that pays the tax due the supplier by the date
26 the supplier must pay the tax to the State."

27 **SECTION 14.(e)** G.S. 105-449.94 is repealed.

28 **SECTION 14.(f)** G.S. 105-449.97(d) reads as rewritten:

29 "(d) Taxes Paid on Exempt Retail Sales. – When filing a return, a supplier that
30 issues or authorizes the issuance of an exempt card or ~~an exempt access code~~ to a person
31 that enables the person to buy motor fuel ~~at retail~~ without paying tax on the fuel may
32 deduct the amount of excise tax imposed on fuel purchased with the exempt ~~retail~~ card
33 or code. The amount of excise tax imposed on fuel purchased ~~at retail~~ with an exempt
34 ~~retail~~ card or code is the amount that was imposed on the fuel when it was delivered to
35 the retailer of the fuel."

36 **SECTION 14.(g)** G.S. 105-449.105A(a) reads as rewritten:

37 "(a) Refund. – A distributor who sells kerosene to any of the following may obtain
38 a refund for the excise tax the distributor paid on the kerosene, less the amount of any
39 discount allowed on the kerosene under G.S. 105-449.93:

40 (1) The end user of the kerosene, if the distributor dispenses the kerosene
41 into a storage facility of the end user that contains fuel used only for
42 one of the following purposes and the storage facility is installed in a
43 manner that makes use of the fuel for any other purpose improbable:

44 a. Heating.

- 1 b. Drying crops.
 2 c. A manufacturing process.
 3 (2) A retailer of kerosene, if the distributor dispenses the kerosene into a
 4 storage facility that meets both of the following conditions:
 5 a. It is marked with the phrase "Undyed, Untaxed Kerosene,
 6 Nontaxable Use Only" or a similar phrase that clearly indicates
 7 that the fuel is not to be used to operate a highway vehicle.
 8 b. It either has a dispensing device that is not suitable for use in
 9 fueling a highway vehicle or is kept locked by the retailer and
 10 must be unlocked by the retailer for each sale of kerosene.
 11 (3) An airport, if the distributor dispenses the kerosene into a storage
 12 facility that contains fuel used only for fueling airplanes and that meets
 13 at least one of the following conditions:
 14 a. It is marked with the phrase "Undyed, Untaxed Kerosene,
 15 Nontaxable Use Only" or a similar phrase that clearly indicates
 16 that the fuel is not to be used to operate a highway vehicle.
 17 b. It has a dispensing device that is not suitable for use in fueling a
 18 highway vehicle."

19 **SECTION 15.(a)** G.S. 105-449.100 reads as rewritten:

20 "**§ 105-449.100. Terminal operator to file informational return showing changes in**
 21 **amount of motor fuel at the terminal.**

22 A terminal operator must file a monthly informational return with the Secretary that
 23 shows the amount of motor fuel received or removed from the terminal during the
 24 month. The return is due ~~by the 25th day of the month following the month covered by~~
 25 ~~the return.~~ on the same date as a monthly return due under G.S. 105-449.90. The return
 26 must contain the following information and any other information required by the
 27 Secretary:

- 28 (1) The number of gallons of motor fuel received in inventory at the
 29 terminal during the month and each position holder for the fuel.
 30 (2) The number of gallons of motor fuel removed from inventory at the
 31 terminal during the month and, for each removal, the position holder
 32 for the fuel and the destination state of the fuel.
 33 (3) The number of gallons of motor fuel gained or lost at the terminal
 34 during the month."

35 **SECTION 15.(b)** G.S. 105-449.102(a) reads as rewritten:

36 "(a) Return. – A distributor that exports motor fuel from a bulk plant located in
 37 this State must file a monthly return with the Secretary that shows the exports. The
 38 return is due ~~by the 25th day of the month following the month covered by the return.~~
 39 on the same date as a monthly return due under G.S. 105-449.90. The return serves as a
 40 claim for refund by the distributor for tax paid to this State on the exported motor fuel."

41 **SECTION 15.(c)** G.S. 105-449.137(b) reads as rewritten:

42 "(b) Payment. – The tax imposed by this Article is payable when a return is due. A
 43 return is due ~~monthly within 25 days after the end of each month.~~ on the same date as a
 44 monthly return due under G.S. 105-449.90. A monthly return covers liabilities that

1 accrue in the calendar month preceding the date the return is due. A return must be filed
2 with the Secretary and must be in the form and contain the information required by the
3 Secretary."

4 **SECTION 15.(d)** G.S. 119-18(a) reads as rewritten:

5 "(a) Tax. – An inspection tax of one fourth of one cent (1/4 of 1¢) per gallon is
6 levied upon all of the fuel listed in this subsection regardless of whether the fuel is
7 exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of
8 the General Statutes. The inspection tax on motor fuel is due and payable to the
9 Secretary of Revenue at the same time that the per gallon excise tax on motor fuel is due
10 and payable under Article 36C of Chapter 105 of the General Statutes. The inspection
11 tax on alternative fuel is due and payable to the Secretary of Revenue at the same time
12 that the excise tax on alternative fuel is due and payable under Article 36D of Chapter
13 105 of the General Statutes. The inspection tax on kerosene is payable monthly to the
14 Secretary by a supplier that is licensed under Part 2 of Article 36C of Chapter 105 of the
15 General Statutes and by a kerosene supplier. A monthly report is due ~~by the 22nd of~~
16 ~~each month on the same date as a monthly return due under G.S. 105-449.90~~ and applies
17 to kerosene sold during the preceding month by a supplier licensed under that Part and
18 to kerosene received during the preceding month by a kerosene supplier. A kerosene
19 terminal operator must file a return in accordance with the provisions of
20 ~~G.S. 105-449.100.~~G.S. 105-449.90.

21 (1) Motor fuel.

22 (2) Alternative fuel used to operate a highway vehicle.

23 (3) Kerosene."

24 **SECTION 16.(a)** G.S. 105-449.106(c) reads as rewritten:

25 "(c) Special Mobile Equipment. – A person who purchases and uses motor fuel to
26 operate special mobile equipment off-highway may receive a quarterly refund, for the
27 excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon
28 rate plus the variable cents-per-gallon rate in effect during the quarter for which the
29 refund is claimed, less the amount of sales and use tax or privilege tax due on the fuel
30 under this Chapter, as determined in accordance with G.S. 105-449.107(c). An
31 application for a refund must be made in accordance with this Part."

32 **SECTION 16.(b)** G.S. 105-449.107 reads as rewritten:

33 "**§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles**
34 **with power attachments.**

35 (a) Off-Highway. – A person who purchases and uses motor fuel for a purpose
36 other than to operate a licensed highway vehicle may receive an annual refund for the
37 excise tax the person paid on fuel used during the preceding calendar year. The amount
38 of refund allowed is the amount of the flat cents-per-gallon rate in effect during the year
39 for which the refund is claimed plus the average of the two variable cents-per-gallon
40 rates in effect during that year, less the amount of sales and use tax or privilege tax due
41 on the fuel under this Chapter. An application for a refund allowed under this section
42 must be made in accordance with this Part.

1 (b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the
2 vehicles listed below may receive an annual refund for the amount of fuel consumed by
3 the vehicle:

- 4 (1) A concrete mixing vehicle.
- 5 (2) A solid waste compacting vehicle.
- 6 (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a
7 power takeoff to unload the feed.
- 8 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a
9 power takeoff to unload the lime or fertilizer.
- 10 (5) A tank wagon that delivers alternative fuel, as defined in
11 G.S. 105-449.130, or motor fuel or another type of liquid fuel into
12 storage tanks and uses a power takeoff to make the delivery.
- 13 (6) A commercial vehicle that delivers and spreads mulch, soils,
14 composts, sand, sawdust, and similar materials and that uses a power
15 takeoff to unload, blow, and spread the materials.
- 16 (7) A commercial vehicle that uses a power takeoff to remove and dispose
17 of septage and for which an annual fee is required to be paid to the
18 Department of Environment and Natural Resources under
19 G.S. 130A-291.1.
- 20 (8) A sweeper.

21 The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the
22 following: the sum of the flat cents-per-gallon rate in effect during the year for which
23 the refund is claimed and the average of the two variable cents-per-gallon rates in effect
24 during that year, less the amount of sales and use tax or privilege tax due on the fuel
25 under this Chapter. An application for a refund allowed under this section must be made
26 in accordance with this Part. This refund is allowed for the amount of fuel consumed by
27 the vehicle in its mixing, compacting, or unloading operations, as distinguished from
28 propelling the vehicle, which amount is considered to be one-third of the amount of fuel
29 consumed by the vehicle.

30 (c) Sales Tax Amount. – Article 5 of this Chapter determines the amount of sales
31 and use tax to be deducted under this section from a motor fuel excise tax refund.
32 Article 5F of this Chapter determines the amount of privilege tax to be deducted under
33 this section from a motor fuel excise tax refund. The sales price and the cost price of
34 motor fuel to be used in determining the amount to deduct is the average of the
35 wholesale prices used under G.S. 105-449.80 to determine the excise tax rates in effect
36 for the two six-month periods of the year for which the refund is claimed."

37 **SECTION 17.** G.S. 105-449.120(a)(3a) is repealed.

38 **SECTION 18.** The catch line of G.S. 105-249.2 reads as rewritten:

39 "**§ 105-249.2. Due date extended and penalties waived for certain military**
40 **personnel or ~~individuals~~ persons affected by a presidentially declared**
41 **disaster."**

42 **SECTION 19.** The catch line of G.S. 143B-437.71 reads as rewritten:

43 "**§ 143B-437.71. One North Carolina Fund established as a ~~nonreverting~~**
44 **account.special revenue fund."**

1 **SECTION 20.(a)** G.S. 153A-155(d) reads as rewritten:

2 "(d) Administration. – The taxing county shall administer a room occupancy tax it
3 levies. A room occupancy tax is due and payable to the county finance officer in
4 monthly installments on or before the ~~15th~~20th day of the month following the month in
5 which the tax accrues. Every person, firm, corporation, or association liable for the tax
6 shall, on or before the 20th day of each month, prepare and render a return on a form
7 prescribed by the taxing county. The return shall state the total gross receipts derived in
8 the preceding month from rentals upon which the tax is levied. A room occupancy tax
9 return filed with the county finance officer is not a public record and may not be
10 disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

11 **SECTION 20.(b)** G.S. 160A-215(d) reads as rewritten:

12 "(d) Administration. – The taxing city shall administer a room occupancy tax it
13 levies. A room occupancy tax is due and payable to the city finance officer in monthly
14 installments on or before the ~~15th~~20th day of the month following the month in which the
15 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or
16 before the 20th day of each month, prepare and render a return on a form prescribed by
17 the taxing city. The return shall state the total gross receipts derived in the preceding
18 month from rentals upon which the tax is levied. A room occupancy tax return filed
19 with the city finance officer is not a public record and may not be disclosed except in
20 accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

21 **SECTION 21.** G.S. 160A-49(f2) reads as rewritten:

22 "(f2) Effective Date of Annexation for Certain Property. – Annexation of property
23 subject to annexation under subsection (f1) of this section shall become effective:

- 24 (1) Upon the effective date of the annexation ordinance, the property is
25 considered part of the city only (i) for the purpose of establishing city
26 boundaries for additional annexations pursuant to this Article and (ii)
27 for the exercise of city authority pursuant to Article 19 of this Chapter.
28 (2) For all other purposes, the annexation becomes effective as to each
29 tract of such property or part thereof on the last day of the month in
30 which that tract or part thereof becomes ineligible for classification
31 pursuant to ~~G.S. 105-227.4~~G.S. 105-277.4 or no longer meets the
32 requirements of subdivision (f1)(2) of this section. Until annexation of
33 a tract or a part of a tract becomes effective pursuant to this
34 subdivision, the tract or part of a tract is not subject to taxation by the
35 city under Article 12 of Chapter 105 of the General Statutes nor is the
36 tract or part of a tract entitled to services provided by the city."

37 **SECTION 22.** The introductory language for Section 59.2 of S.L. 2005-435
38 reads as rewritten:

39 "**SECTION 59.2.(a)** ~~G.S. 105-114.1(a4)~~G.S. 105-114(a4) reads as rewritten:"

40 **SECTION 23.** The introductory language of Section 4 of S.L. 2005-413
41 reads as rewritten:

42 "**SECTION 4.** ~~G.S. 105-129.15(7)~~ reads ~~Subdivisions (6) and (7) of~~
43 G.S. 105-129.15 read as rewritten:"

44 **SECTION 24.** Section 1(a) of S.L. 2005-261 reads as rewritten:

