

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 763*
Finance Committee Substitute Adopted 7/22/14
House Committee Substitute Favorable 7/30/14

Short Title: Revenue Laws Tech. Changes and Other Changes.

(Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO VARIOUS REVENUE LAWS; TO EXEMPT FROM SALES AND USE TAX FIFTY PERCENT (50%) OF THE RETAIL SALES PRICE OF A MANUFACTURED AND MODULAR HOME; TO MODIFY THE RENEWABLE ENERGY TAX CREDIT; AND TO MODIFY AND EXTEND THE HISTORIC REHABILITATION TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 7.2(a) of S.L. 2014-3 reads as rewritten:

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

SECTION 1.(b) Section 7.3 of S.L. 2014-3 reads as rewritten:

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

SECTION 2.(a) Section 8.1(c) of S.L. 2014-3 reads as rewritten:

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

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

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

SECTION 2.(b) This section becomes effective June 1, 2014.

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

SECTION 4.(a) G.S. 105-113.35(d) reads as rewritten:



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

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

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

25 **SECTION 4.(b)** This section becomes effective June 1, 2015.

26 **SECTION 5.** G.S. 105-129.16A reads as rewritten:

27 "**§ 105-129.16A. Credit for investing in renewable energy property.**

28 (a) ~~Credit. – If a taxpayer that has constructed, purchased, or leased renewable energy~~
29 ~~property places it in service in this State during the taxable year, the taxpayer is allowed a~~
30 ~~credit equal to thirty five percent (35%) of the cost of the property. A taxpayer that has~~
31 constructed, purchased, or leased renewable energy property is allowed a credit equal to
32 thirty-five percent (35%) of the cost of the property if the property is placed in service in this
33 State during the taxable year. In the case of renewable energy property that serves a
34 nonbusiness purpose, the credit must be taken for the taxable year in which the property is
35 placed in service. For all other renewable energy property, the entire credit may not be taken
36 for the taxable year in which the property is placed in service but must be taken in five equal
37 installments beginning with the taxable year in which the property is placed in service. Upon
38 request of a taxpayer that leases renewable energy property, the lessor of the property must give
39 the taxpayer a statement that describes the renewable energy property and states the cost of the
40 property. No credit is allowed under this section to the extent the cost of the renewable energy
41 property was provided by public funds. For the purposes of this section, "public funds" does not
42 include grants made under section 1603 of the American Recovery and Reinvestment Tax Act
43 of 2009.

44 "

45 **SECTION 6.** Section 1.1(a) of S.L. 2014-3 is rewritten to read:

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

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

50 ...

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

(4a) A State net loss as allowed under G.S. 105-130.8A. A corporation may deduct its allocable and apportionable State net loss only from total income allocable and apportionable to this State.

...."

SECTION 7.(a) G.S. 105-134.6A, as amended by S.L. 2014-3, reads as rewritten:

"(h) ~~Definitions. – For purposes of this section, a "transferor" is an~~ The following definitions apply in this section:

(1) Transferor. – An individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a beneficiaries.

(2) Owner in a transferor. – One or more of the following of a transferor:

a. A partner, shareholder, member, or beneficiary or member.

b. A beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter of a transferor. ~~Chapter."~~

SECTION 7.(b) G.S. 105-153.6, as amended by S.L. 2014-3, reads as rewritten:

"(h) ~~Definitions. – For purposes of this section, a "transferor" is an~~ The following definitions apply in this section:

(1) Transferor. – An individual, partnership, corporation, S Corporation, limited liability company, or an estate or trust that does not fully distribute income to its beneficiaries, and an "owner in a transferor" is a beneficiaries.

(2) Owner in a transferor. – One or more of the following of a transferor:

a. A partner, shareholder, member, or beneficiary or member.

b. A beneficiary subject to tax under Part 2 or 3 of Article 4 of this Chapter of a transferor. ~~Chapter."~~

SECTION 7.(c) Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2013. Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2014. The remainder of this section is effective when it becomes law.

SECTION 8.(a) G.S. 105-153.4 reads as rewritten:

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

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

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

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

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

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

23 **SECTION 8.(b)** G.S. 105-153.5 is amended by adding a new subsection to read:

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

28 **SECTION 8.(c)** This section becomes effective for taxable years beginning on or
29 after January 1, 2014.

30 **SECTION 9.(a)** Notwithstanding G.S. 105-163.15, the Secretary of Revenue may
31 not impose interest with respect to an underpayment of income tax to the extent the
32 underpayment was created or increased by the changes made in Section 2.2 of S.L. 2014-3.
33 Notwithstanding G.S. 105-163.8, a withholding agent is not liable for the amount of tax the
34 agent fails to withhold to the extent the amount of tax not withheld was created or increased by
35 the changes made in Section 2.2 of S.L. 2014-3.

36 **SECTION 9.(b)** This section is effective when it becomes law and applies to
37 taxable years beginning on or after January 1, 2014, and before January 1, 2015, and to payroll
38 periods beginning on or after January 1, 2014, and before January 1, 2015.

39 **SECTION 10.** G.S. 105-164.3(35), as amended by Section 14.7 of S.L. 2014-3,
40 reads as rewritten:

41 "**§ 105-164.3. Definitions.**

42 The following definitions apply in this Article:

43 ...

44 (35) ~~Retailer. – A person engaged in business of any of the following:~~ Any of the
45 following persons:

- 46 a. ~~Making~~ A person engaged in business of making sales at retail,
47 offering to make sales at retail, or soliciting sales at retail of tangible
48 personal property, digital property, or services for storage, use, or
49 consumption in this State. When the Secretary finds it necessary for
50 the efficient administration of this Article to regard any sales
51 representatives, solicitors, representatives, consignees, peddlers, or

1 truckers as agents of the dealers, distributors, consignors,
 2 supervisors, employers, or persons under whom they operate or from
 3 whom they obtain the items sold by them regardless of whether they
 4 are making sales on their own behalf or on behalf of these dealers,
 5 distributors, consignors, supervisors, employers, or persons, the
 6 Secretary may so regard them and may regard the dealers,
 7 distributors, consignors, supervisors, employers, or persons as
 8 "retailers" for the purpose of this Article.

- 9 b. ~~Delivering~~, A person engaged in business of delivering, erecting,
 10 installing, or applying tangible personal property for use in this State,
 11 regardless of whether the property is permanently affixed to real
 12 property or other tangible personal property.
- 13 c. ~~Making~~ A person engaged in business of making a remote sale, if
 14 one of the conditions listed in G.S. 105-164.8(b) is met.
- 15 d. A person, other than a facilitator, required to collect the tax levied
 16 under G.S. 105-164.4(a)."

17 **SECTION 11.** G.S. 105-164.4G, as enacted by S.L. 2014-3, reads as rewritten:

18 **"§ 105-164.4G. Entertainment activity.**

19 ...
 20 (f) Exemptions. – The sale at retail and the use, storage, or consumption in this State of
 21 the following gross receipts derived from an admission charge to an entertainment activity are
 22 specifically exempt from the tax imposed by this Article:

23 ...
 24 (g) Sourcing. – ~~Admission~~ An admission charge to an entertainment activity is sourced
 25 to the location where admission to the entertainment activity may be gained by a person. When
 26 the location where admission may be gained is not known at the time of the receipt of the gross
 27 receipts for an admission charge, the sourcing principles in G.S. 105-164.4B(a) apply."

28 **SECTION 12.(a)** G.S. 105-164.13, as amended by Section 6.1(f) of S.L. 2014-3,
 29 reads rewritten:

30 **"§ 105-164.13. Retail sales and use tax.**

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

34 ...
 35 (8a) Sales to a small power production facility, as defined in 16 U.S.C. §
 36 796(17)(A), of fuel and piped natural gas used by the facility to generate
 37 electricity.

38 ...
 39 (10) Sales of the following to commercial laundries or to pressing and dry
 40 cleaning establishments:

- 41 a. Articles or materials used for the identification of garments being
 42 laundered or dry cleaned, wrapping paper, bags, hangers, starch,
 43 soaps, detergents, cleaning fluids and other compounds or chemicals
 44 applied directly to the garments in the direct performance of the
 45 laundering or the pressing and cleaning service.
- 46 b. Laundry and dry-cleaning machinery, parts and accessories attached
 47 to the machinery, and lubricants applied to the machinery.
- 48 c. ~~Fuel, other than electricity,~~ Fuel and piped natural gas used in the
 49 direct performance of the laundering or the pressing and cleaning
 50 service. The exemption does not apply to electricity.

51 ...

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

5 "

6 **SECTION 12.(b)** G.S. 105-164.13, as amended by Section 6.1(f) of S.L. 2014-3,
7 reads as rewritten:

8 "**§ 105-164.13. Retail sales and use tax.**

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

12 ...

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

23 **SECTION 12.(c)** G.S. 105-187.52(c) reads as rewritten:

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

28 **SECTION 12.(d)** Notwithstanding G.S. 105-164.13(62), as amended by S.L.
29 2014-3 and by subsection (b) of this section, the sales and use tax exemption in
30 G.S. 105-164.13(62) applies to an item used pursuant to a service contract that meets the
31 definition of a "service contract" as defined in G.S. 105-164.3(38b), notwithstanding that the
32 service contract was sold before January 1, 2014, and effective on, before, or after January 1,
33 2014.

34 **SECTION 12.(e)** Subsection (b) of this section becomes effective October 1, 2014.
35 The remainder of this section is effective when it becomes law.

36 **SECTION 13.** G.S. 105-164.13E, as amended by S.L. 2014-3, reads as rewritten:

37 "**§ 105-164.13E. Exemption for farmers.**

38 (a) Exemption. – A qualifying farmer is a person who has an annual gross income for
39 the preceding taxable year of ten thousand dollars (\$10,000) or more from farming operations
40 or who has an average annual gross income for the three preceding taxable years of ten
41 thousand dollars (\$10,000) or more from farming operations. A qualifying farmer includes a
42 dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a
43 farmer of an aquatic species, as defined in G.S. 106-758. A qualifying farmer may apply to the
44 Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption
45 certificate expires when a person fails to meet the income threshold for three consecutive
46 taxable years or ceases to engage in farming ~~operations-operations, whichever comes first.~~

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

(1) ~~Fuel and~~ Fuel, piped natural gas, and electricity that is-are measured by a separate meter or another separate device and used for a purpose other than preparing food, heating dwellings, and other household purposes.

...

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

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

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

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

SECTION 14. G.S. 105-164.16A, as enacted by S.L. 2014-3, reads as rewritten:

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

(a) Reporting Option. – This ~~section-subsection~~ provides a ~~taxpayer-retailer~~ that offers to sell a prepaid meal ~~plan-plan~~ subject to the tax imposed by G.S. 105-164.4 with an option concerning the method by which the sales tax will be remitted to the Secretary and a return filed under G.S. 105-164.16. When the retailer enters into an agreement with a food service contractor by which the food service contractor agrees to provide food or prepared food under a prepaid meal plan, and the food service contractor with whom the retailer contracts is also a retailer under this Article, the retailer may include in the agreement that the food service contractor is liable for ~~collecting-reporting~~ and remitting the sales tax due on the gross receipts derived from the prepaid meal plan on behalf of the retailer. The agreement must provide that the tax applies to the allocated sales price of the prepaid meal plan paid by or on behalf of the

1 person entitled to the food or prepaid food under the plan and not the amount charged by the
2 food service contractor to the retailer under the agreement for the food and prepared food for
3 the person.

4 A retailer who elects this option must report to the food service contractor with whom it has
5 an agreement the gross receipts a person pays to the retailer for a prepaid meal plan. The
6 retailer must send the food service contractor the tax due on the gross receipts derived from a
7 prepaid meal plan. Tax payments received by a food service contractor from a retailer are held
8 in trust by the food service contractor for remittance to the Secretary. A food service contractor
9 that receives a tax payment from a retailer must remit the amount received to the Secretary. A
10 food service contractor is not liable for tax due but not received from a retailer. A retailer that
11 does not send the food service contractor the tax due on the gross receipts derived from a
12 prepaid meal plan is liable for the amount of tax the retailer fails to send to the food service
13 contractor.

14 (b) Basis of Reporting. – A retailer must report gross receipts derived from a prepaid
15 meal plan on an accrual basis of accounting for purposes of this Article, notwithstanding that
16 the retailer reports tax on the cash basis for other sales at retail and notwithstanding that the
17 revenue has not been recognized for accounting purposes."

18 **SECTION 15.** Section 4.1(g) of S.L. 2014-3 reads as rewritten:

19 "SECTION 4.1.(g) This Part is effective when it becomes law and applies to the
20 following:

- 21 (1) ~~gross~~-Gross receipts derived from a prepaid meal plan sold or billed on or
22 after July 1, 2014.
23 (2) Gross receipts derived from a prepaid meal plan sold or billed before July 1,
24 2014, if the prepaid meal plan is not authorized for use or available to the
25 person until on or after August 1, 2014."

26 **SECTION 16.** G.S. 105-164.20 reads as rewritten:

27 "§ 105-164.20. **Cash or accrual basis of reporting.**

28 ~~Any retailer, except a retailer who sells electricity or telecommunications service, Except as~~
29 otherwise provided in this section, a retailer may report sales for purposes of this Article on
30 either the cash or accrual basis of accounting upon making application to the Secretary for
31 permission to use the basis selected. Permission granted by the Secretary to report on a selected
32 basis continues in effect until revoked by the Secretary or the taxpayer receives permission
33 from the Secretary to change the basis selected. ~~A retailer who sells electricity or~~
34 ~~telecommunications service~~ A retailer of the following must report its sales on an accrual basis.
35 A sale of electricity or telecommunications service basis for purposes of this Article and the tax
36 on the sales price or gross receipts derived from the sale is considered to accrue when the
37 retailer bills its customer for the ~~sale~~ sale or gross receipts:

- 38 (1) Electricity.
39 (2) Telecommunications service.
40 (3) Piped natural gas.
41 (4) Prepaid meal plans."

42 **SECTION 17.** G.S. 105-164.29(a), as amended by Section 14.9(b) of S.L. 2014-3,
43 reads as rewritten:

44 "(a) Requirement and Application. – Before a person may engage in business as a
45 retailer or a wholesale merchant or when a facilitator is liable for tax under G.S. 105-164.4F,
46 the person must obtain a certificate of registration. To obtain a certificate of registration, a
47 person must register with the Department. A person who has more than one business is required
48 to obtain only one certificate of registration for each legal entity to cover all operations of each
49 business throughout the State. An application for registration must be signed as follows:

- 50 (1) By the owner, if the owner is an individual.

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

9 **SECTION 18.** G.S. 105-241.6(b)(5) reads as rewritten:

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

- 12 ...
 13 (5) Contingent Event. – The period to request a refund of an overpayment may
 14 be extended as provided in this subdivision if an event or condition prevents
 15 the taxpayer from possessing the information necessary to file an accurate
 16 and definite request for a refund of an overpayment under this Chapter:
 17 a. If a taxpayer is subject to a contingent event and files written notice
 18 with the Secretary, the period to request a refund of an overpayment
 19 is six months after the contingent event concludes.
 20 ~~b. For purposes of this subdivision,~~ For purposes of this subdivision, a
 21 "contingent event" means litigation or a State-state tax audit initiated
 22 prior to the expiration of the statute of limitations under subsection
 23 (a) of this section, the pendency of which prevents the taxpayer from
 24 possessing the information necessary to file an accurate and definite
 25 request for a refund of an overpayment under this Chapter.
 26 ~~e. For purposes of this subdivision, "notice to the Secretary" means~~
 27 ~~written notice~~ The written notice to the Secretary must be filed with
 28 ~~the Secretary~~ prior to expiration of the statute of limitations under
 29 subsection (a) of this section for a return or payment in which a
 30 contingent event prevents a taxpayer from filing a definite request for
 31 a refund of an overpayment. The notice must identify and describe
 32 the contingent event, identify the type of tax, list the return or
 33 payment affected by the contingent event, and state in clear terms the
 34 basis for and an estimated amount of the overpayment.
 35 ~~d.b. A~~ If a taxpayer who contends that an event or condition other than
 36 litigation or a State tax audit a contingent event, as defined in this
 37 subdivision, has occurred that prevents the taxpayer from filing an
 38 accurate and definite request for a refund of an overpayment within
 39 the period under subsection (a) of this section, the taxpayer
 40 may submit a written request to the Secretary seeking an extension of
 41 the statute of limitations allowed under this subdivision. The request
 42 must establish by clear, convincing proof that the event or condition
 43 is beyond the taxpayer's control and that it prevents the taxpayer's
 44 timely filing of an accurate and definite request for a refund of an
 45 overpayment. The request must be filed within the period under
 46 subsection (a) of this section. The Secretary's decision on the request
 47 is final and is not subject to administrative or judicial review.

48 **SECTION 19.(a)** G.S. 105-338(c), as amended by Section 11.1(e) of S.L. 2014-3,
 49 reads as rewritten:

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

1 ...
2 (4) ~~The appraised valuation of the tangible personal property of a mobile~~
3 ~~telecommunications company (excluding towers) that is appraised in~~
4 ~~accordance with the provisions of G.S. 105-336(c) is allocated among the~~
5 ~~local taxing units in which the property of the company is situated on~~
6 ~~January 1 in the proportion that the original cost of the property in the taxing~~
7 ~~unit bears to the original cost of all such property in this State."~~

8 **SECTION 19.(b)** G.S. 105-339, as amended by Section 11.1(f) of S.L. 2014-3,
9 reads as rewritten:

10 **"§ 105-339. Certification of appraised valuations of nonsystem property and locally**
11 **assigned rolling stock, tangible personal property of tower aggregator**
12 **companies, and ~~certain~~—tangible personal property of mobile**
13 **telecommunications companies.**

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

25 **SECTION 19.(c)** Section 11.1(g) of S.L. 2014-3 is repealed.

26 **SECTION 19.(d)** Subsection (c) of this section is effective when it becomes law.
27 The remainder of this section is effective for taxes imposed for taxable years beginning on or
28 after July 1, 2015.

29 **SECTION 20.(a)** G.S. 160A-206 reads as rewritten:

30 **"§ 160A-206. General power to impose taxes.**

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

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

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

49 **SECTION 20.(b)** G.S. 153A-146 reads as rewritten:

50 **"§ 153A-146. General power to impose taxes.**

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

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

13 (1) Supplying piped natural gas.

14 (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).

15 (3) Providing video programming taxed under G.S. 105-164.4(a)(6).

16 (4) Providing electricity."

17 **SECTION 21.** The Department of Revenue may draw the funds needed to make
18 the following distributions from the sales and use tax collections under Article 5 of Chapter 105
19 of the General Statutes:

20 (1) The September 15, 2014, distribution of the franchise tax to cities under
21 G.S. 105-116.1 for the calendar quarter than begins April 1, 2014.

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

24 **SECTION 22.** G.S. 105-130.3C reads as rewritten:

25 **"§ 105-130.3C. Rate reduction trigger.**

26 (a) Trigger. – If the amount of net General Fund tax collected in fiscal year 2014-2015
27 or fiscal year 2015-2016 exceeds the ~~anticipated General Fund tax collections~~ targeted amount
28 for that fiscal year, the rate of tax set in G.S. 105-130.3 may be decreased in accordance with
29 this section effective for the taxable year that begins on the following January 1. ~~The amount of~~
30 ~~net General Fund tax collected for a fiscal year is the amount reported by the State Controller in~~
31 ~~the State's Comprehensive Annual Financial Report, required to be prepared under~~
32 ~~G.S. 143B-426.39.~~ The Secretary must ~~monitor the net General Fund tax collections and~~ notify
33 taxpayers if the rate decreases under this section. The rate is decreased by one percent (1%) if
34 net General Fund tax collections for fiscal year 2014-2015 exceed the targeted amount of
35 twenty billion two hundred million dollars (\$20,200,000,000). The rate is decreased by one
36 percent (1%) if net General Fund tax collections for fiscal year 2015-2016 exceed the targeted
37 amount of twenty billion nine hundred seventy-five million dollars (\$20,975,000,000).
38 Effective for taxable years beginning on or after January 1, 2017, the rate of tax set in
39 G.S. 105-130.3 is the rate determined in accordance with this section.

40 (b) Tax Collections. – For purposes of this section, the amount of net General Fund tax
41 collected for a fiscal year is the amount of net revenue as reported by the Department of
42 Revenue's June Statement of Collection as "Total General Fund Revenue" for the 12-month
43 period that ended the previous June 30, modified as follows:

44 (1) Less any large one-time, nonrecurring revenue as reported to the Fiscal
45 Research Division of the General Assembly by the Department and verified
46 by the Fiscal Research Division of the General Assembly.

47 (2) Adjusted by any changes in net collections resulting from the suspension or
48 termination of transfers out of General Fund tax collections."

49 **SECTION 23.(a)** G.S. 105-153.3 reads as rewritten:

50 **"§ 105-153.3. Definitions.**

51 The following definitions apply in this Part:

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

SECTION 23.(b) G.S. 105-153.5(a)(1) reads as rewritten:

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

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

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

SECTION 23.(c) G.S. 105-134.1 reads as rewritten:

"§ 105-134.1. Definitions.

The following definitions apply in this Part:

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

SECTION 23.(d) G.S. 105-134.6(a2) reads as rewritten:

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

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

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

SECTION 23.(e) Subsections (a) and (b) of this section are effective for taxable years beginning on or after January 1, 2014. Subsections (c) and (d) of this section are effective retroactively for taxable years beginning on or after January 1, 2012, and before January 1, 2014. The remainder of this section is effective when it becomes law.

1 SECTION 24.(a) G.S. 105-164.13 is amended by adding a new subdivision to
2 read:

3 **"§ 105-164.13. Retail sales and use tax.**

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

7 ...

8 (64) Fifty percent (50%) of the sales price of a modular home or a manufactured
9 home, including all accessories attached when delivered to the purchaser."

10 SECTION 24.(b) This section becomes effective September 1, 2014, and applies
11 to sales made on or after that date.

12 SECTION 25. G.S. 105-164.13B(a)(4) reads as rewritten:

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

16 ...

17 (4) Prepared food, other than bakery items sold without eating utensils by an
18 artisan bakery. The term "bakery item" includes bread, rolls, buns, biscuits,
19 bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins,
20 bars, cookies, and tortillas. An artisan bakery is a bakery that meets all of the
21 following requirements:

22 a. It derives over eighty percent (80%) of its gross receipts from bakery
23 items.

24 b. Its annual gross receipts, combined with the gross receipts of all
25 related ~~persons as defined in G.S. 105-163.010, persons,~~ do not
26 exceed one million eight hundred thousand dollars (\$1,800,000). For
27 purposes of this subdivision, the term "related person" means a
28 person described in one of the relationships set forth in section
29 267(b) or 707(b) of the Code."

30 SECTION 26. G.S. 105-129.16A reads as rewritten:

31 **"§ 105-129.16A. Credit for investing in renewable energy property.**

32 ...

33 (e) Sunset. – ~~This~~ Except for taxpayers covered by subsection (e1) of this section, this
34 section is repealed effective for renewable energy property placed into service on or after
35 January 1, 2016.

36 (e1) Delayed Sunset. – For taxpayers that have incurred more than five percent (5%) of
37 the cost of constructing renewable energy property on or before January 1, 2016, this section is
38 repealed effective for renewable energy property placed into service after July 1, 2017."

39 SECTION 27.(a) Article 3D of Chapter 105 of the General Statutes reads as
40 rewritten:

41 "Article 3D.

42 "Historic Rehabilitation ~~Tax Credits.~~ Investment Program.

43 **"§ 105-129.35. Credit for rehabilitating income-producing historic structure.**

44 (a) Credit. – A taxpayer who is allowed a federal income tax credit under section 47 of
45 the Code for making qualified rehabilitation expenditures for a certified historic structure
46 located in this State is allowed a credit equal to ~~twenty percent (20%) a percentage~~ of the
47 expenditures that qualify for the federal credit. The percentage is equal to the sum of the
48 following applicable amounts:

49 (1) Base amount. – An amount equal to fifteen percent (15%) of qualified
50 rehabilitation expenditures up to ten million dollars (\$10,000,000) and ten
51 percent (10%) of qualified rehabilitation expenditures greater than ten

1 million dollars (\$10,000,000) and up to twenty million dollars
2 (\$20,000,000).

3 (2) Development tier bonus. – An amount equal to five percent (5%) of
4 qualified rehabilitation expenditures not exceeding twenty million dollars
5 (\$20,000,000) if the certified historic structure is located in a development
6 tier one or two area.

7 (3) Targeted investment bonus. – An amount equal to five percent (5%) of
8 qualified rehabilitation expenditures not exceeding twenty million dollars
9 (\$20,000,000) if the certified historic structure is located in an eligible
10 targeted investment site.

11 ~~If the certified historic structure is a facility that at one time served as a State training~~
12 ~~school for juvenile offenders, the amount of the credit is equal to forty percent (40%) of the~~
13 ~~expenditures that qualify for the federal credit. To claim the credit allowed by this subsection,~~
14 ~~the taxpayer must provide a copy of the certification obtained from the State Historic~~
15 ~~Preservation Officer verifying that the historic structure has been rehabilitated in accordance~~
16 ~~with this subsection. A claim for the targeted investment bonus must include in the materials~~
17 ~~submitted to the Secretary a copy of the eligibility certification.~~

18 (b) Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a
19 pass-through entity that qualifies for the credit provided in this section may allocate the credit
20 among any of its owners in its ~~discretion as long as an owner's adjusted basis in the~~
21 ~~pass-through entity, as determined under the Code, at the end of the taxable year in which the~~
22 ~~certified historic structure is placed in service, is at least forty percent (40%) of the amount of~~
23 ~~credit allocated to that owner.~~ discretion. Owners to whom a credit is allocated are allowed the
24 credit as if they had qualified for the credit directly. A pass-through entity and its owners must
25 include with their tax returns for every taxable year in which an allocated credit is claimed a
26 statement of the allocation made by the pass-through entity and the allocation that would have
27 been required under G.S. 105-131.8 or G.S. 105-269.15.

28 (c) Definitions. – The following definitions apply in this section:

29 (1) Certified historic structure. – Defined in section 47 of the Code.

30 (1a) Development tier area. – Defined in G.S. 143B-437.08.

31 (1b) Eligibility certification. – A certification obtained from the State Historic
32 Preservation Officer that the site comprises an eligible targeted investment
33 site.

34 (1c) Eligible targeted investment site. – A site located in this State that satisfies
35 all of the following conditions:

36 a. It was used as a manufacturing facility or for purposes ancillary to
37 manufacturing, as a warehouse for selling agricultural products, or as
38 a public or private utility.

39 b. It is a certified historic structure.

40 c. It has been at least sixty-five percent (65%) vacant for a period of at
41 least two years immediately preceding the date the eligibility
42 certification is made.

43 (2) Pass-through entity. – Defined in G.S. 105-228.90.

44 (3) Qualified rehabilitation expenditures. – Defined in section 47 of the Code.

45 (4) State Historic Preservation Officer. – ~~Defined in G.S. 105-129.36.~~ The
46 Deputy Secretary of the Office of Archives and History of the North
47 Carolina Department of Cultural Resources, or the Deputy Secretary's
48 designee, who acts to administer the historic preservation programs within
49 the State.

50 "§ 105-129.36. Credit for rehabilitating nonincome-producing historic structure.

1 (a) Credit. – A taxpayer who is not allowed a federal income tax credit under section 47
2 of the Code and who makes rehabilitation expenses for a State-certified historic structure
3 located in this State is allowed a credit equal to ~~thirty percent (30%)~~ a percentage of the
4 rehabilitation ~~expenses.~~ expenses, as follows:

5 (1) Twenty percent (20%) of rehabilitation expenses incurred up to two hundred
6 thousand dollars (\$200,000) over any one 24-month period per discrete
7 property parcel with an assessed value equal to or less than the statewide
8 median home value.

9 (2) Fifteen percent (15%) of rehabilitation expenses incurred up to two hundred
10 thousand dollars (\$200,000) over any one 24-month period per discrete
11 property parcel with an assessed value greater than the statewide median
12 home value but equal to or less than one hundred fifty percent (150%) of the
13 statewide median home value; provided that the taxpayer's rehabilitation
14 expenses exceed ten thousand dollars (\$10,000) within the 24-month period
15 and the rehabilitation expenses have not been on a single State-certified
16 historic property for more than five years.

17 ~~If the certified historic structure is a facility that at one time served as a State training~~
18 ~~school for juvenile offenders, the amount of the credit is equal to forty percent (40%) of the~~
19 ~~expenditures that qualify for the federal credit. To qualify for the credit, the taxpayer's~~
20 ~~rehabilitation expenses must exceed twenty five thousand dollars (\$25,000) within a 24 month~~
21 ~~period. To claim the credit allowed by this subsection, subdivision (2) of this subsection, the~~
22 ~~taxpayer must provide a copy of the certification obtained from the State Historic Preservation~~
23 ~~Officer verifying that the historic structure has been rehabilitated in accordance with this~~
24 ~~subsection.~~

25 (b) Definitions. – The following definitions apply in this section:

26 (1) Assessed value. – The tax value of the property upon which the
27 State-certified historic structure is sited on the county listing as of the
28 beginning of the year in which rehabilitation expenses on the State-certified
29 historical structure commence.

30 (1a) Certified rehabilitation. – Repairs or alterations consistent with the Secretary
31 of the Interior's Standards for Rehabilitation and certified as such by the
32 State Historic Preservation Officer.

33 (2) Rehabilitation expenses. – Expenses incurred in the certified rehabilitation of
34 a certified historic structure and added to the property's ~~basis.~~ basis if the
35 expense is incurred for any of the following of the historic structure: (i) the
36 exterior, (ii) the interior of a window sash if work is done to the exterior of
37 the same window sash, (iii) structural elements, (iv) heating or ventilation
38 systems, (v) electrical or plumbing systems, other than fixtures, or (vi)
39 insulation. The term does not include the cost of acquiring the property, the
40 cost attributable to the enlargement of an existing building, the cost of
41 sitework expenditures, ~~or~~ the cost of personal ~~property.~~ property, or the cost
42 of any interior repair not specifically listed in this subdivision.

43 (3) State-certified historic structure. – A structure that is individually listed in
44 the National Register of Historic Places or is certified by the State Historic
45 Preservation Officer as contributing to the historic significance of a National
46 Register Historic District or a locally designated historic district certified by
47 the United States Department of the Interior.

48 (4) State Historic Preservation Officer. – The Deputy Secretary of Archives and
49 History or the Deputy Secretary's designee who acts to administer the
50 historic preservation programs within the State.

1 (5) Statewide median home value. – The median value of owner-occupied
2 housing units for the State, as determined by the five-year American
3 Community Survey estimates published by the United States Census Bureau
4 in the year prior to the year in which the State Historic Preservation Officer
5 issues the certification verifying that the historic structure has been
6 rehabilitated in accordance with this Article.

7 (c) Recodified as G.S. 105-129.36A by Session Laws 2003-284, s. 35A.2, effective July
8 15, 2003.

9 **"§ 105-129.36A. Rules; fees.**

10 (a) Rules. – The North Carolina Historical Commission, in consultation with the State
11 Historic Preservation Officer, may adopt rules needed to administer ~~the~~ any certification
12 process required by this section.

13 (b) Fees. – The North Carolina Historical Commission, in consultation with the State
14 Historic Preservation Officer, may adopt a schedule of fees for providing certifications required
15 by this Article. In establishing the fee schedule, the Commission shall consider the
16 administrative and personnel costs incurred by the Department of Cultural Resources. An
17 application fee may not exceed one percent (1%) of the completed qualifying rehabilitation
18 expenditures. The proceeds of the fees are receipts of the Department of Cultural Resources
19 and must be used for performing its duties under this Article.

20 **"§ 105-129.37. Tax credited; credit limitations.**

21 (a) Tax Credited. – The credits provided in this Article are allowed against the franchise
22 tax imposed in Article 3 of this Chapter, the income taxes levied in Article 4 of this Chapter, or
23 the gross premiums tax imposed in Article 8B of this Chapter. The taxpayer may take the
24 credits allowed by this Article against only one of the taxes against which it is allowed. The
25 taxpayer must elect the tax against which a credit will be claimed when filing the return on
26 which it is claimed, and this election is binding. The credit may be claimed in the year in which
27 the certified historic structure is placed into service. When the certified historic structure is
28 placed into service in two or more phases in different years, the amount of credit that may be
29 claimed in a year is the amount based on the qualified rehabilitation expenditures associated
30 with the phase placed into service during that year.

31 (b) Credit Limitations. – ~~The entire credit may not be taken for the taxable year in~~
32 ~~which the property is placed in service but must be taken in five equal installments beginning~~
33 ~~with the taxable year in which the property is placed in service. Any unused portion of the~~
34 ~~credit may be carried forward for the succeeding five years.~~ A credit allowed under this Article
35 may not exceed the amount of the tax against which it is claimed for the taxable year reduced
36 by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.
37 Any unused portion of the credit may be carried forward for the succeeding nine years. Any
38 carryforwards of the credit must be claimed against the same tax.

39 (c) Forfeiture for Disposition. – A taxpayer who is required under section 50 of the
40 Code to recapture all or part of the federal credit for rehabilitating an income-producing historic
41 structure located in this State forfeits the corresponding part of the State credit allowed under
42 G.S. 105-129.35 with respect to that historic structure. If the credit was allocated among the
43 owners of a pass-through entity, the forfeiture applies to the owners in the same proportion that
44 the credit was allocated.

45 (d) Forfeiture for Change in Ownership. – If an owner of a pass-through entity that has
46 qualified for the credit allowed under G.S. 105-129.35 disposes of all or a portion of the
47 owner's interest in the pass-through entity within five years from the date the rehabilitated
48 historic structure is placed in service and the owner's interest in the pass-through entity is
49 reduced to less than two-thirds of the owner's interest in the pass-through entity at the time the
50 historic structure was placed in service, the owner forfeits a portion of the credit. The amount
51 forfeited is determined by multiplying the amount of credit by the percentage reduction in

1 ownership and then multiplying that product by the forfeiture percentage. The forfeiture
2 percentage equals the recapture percentage found in the table in section 50(a)(1)(B) of the
3 Code. ~~The remaining allowable credit is allocated equally among the five years in which the~~
4 ~~credit is claimed.~~

5 (e) Exceptions to Forfeiture. – Forfeiture as provided in subsection (d) of this section is
6 not required if the change in ownership is the result of any of the following:

7 (1) The death of the owner.

8 (2) A merger, consolidation, or similar transaction requiring approval by the
9 shareholders, partners, or members of the taxpayer under applicable State
10 law, to the extent the taxpayer does not receive cash or tangible property in
11 the merger, consolidation, or other similar transaction.

12 (f) Liability From Forfeiture. – A taxpayer or an owner of a pass-through entity that
13 forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus
14 interest at the rate established under G.S. 105-241.21, computed from the date the taxes would
15 have been due if the credit had not been allowed. The past taxes and interest are due 30 days
16 after the date the credit is forfeited. A taxpayer or owner of a pass-through entity that fails to
17 pay the taxes and interest by the due date is subject to the penalties provided in G.S. 105-236.

18 "**§ 105-129.38. Report.Report; tracking.**

19 (a) The Department must include in the economic incentives report required by
20 G.S. 105-256 the following information itemized by taxpayer:

21 (1) The number of taxpayers that took the credits allowed in this Article.

22 (2) The amount of rehabilitation expenses and qualified rehabilitation
23 expenditures with respect to which credits were taken.

24 (3) The total cost to the General Fund of the credits ~~taken~~ taken per taxpayer per
25 project.

26 (b) The Department shall track the credits, including credits carried forward, allowed to
27 each taxpayer by use of a project number generated by the State Historic Preservation Office
28 and shall develop a method for reporting the project number on North Carolina annual tax
29 returns.

30 (c) The Department shall include in the economic incentives report required by
31 G.S. 105-256 the following information:

32 (1) The total amount of tax credits awarded and the total amount of tax credits
33 claimed against current taxes, by type of tax, during the relevant tax year.

34 (2) The total amount of tax credits carried forward, by type of tax.

35 "**§ 105-129.39. Sunset.**

36 This Article expires for qualified rehabilitation expenditures and rehabilitation expenses
37 incurred on or after January 1, ~~2015~~ 2020."

38 **SECTION 27.(b)** This section becomes effective January 1, 2015, and applies to
39 qualified rehabilitation expenditures and rehabilitation expenses incurred on or after that date.

40 **SECTION 28.** Except as otherwise provided, this act is effective when it becomes
41 law.