

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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BILL DRAFT 2019-BAxfz-22A [v.3]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Revenue Laws Recommendations.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. IRC UPDATE**

6 **SECTION 1.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

7 "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2019~~, May 1, 2020,
8 including any provisions enacted as of that date that become effective either before or after that
9 date."

10 **SECTION 1.(b)** G.S. 105-130.5(a) reads as rewritten:

11 "(a) The following additions to federal taxable income shall be made in determining State
12 net income:

13 ...

14 (31) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the
15 amount by which the taxpayer's interest expense deduction under section
16 163(j) of the Code exceeds the interest expense deduction that would have
17 been allowed under the Code as enacted as of January 1, 2020, as calculated
18 on a separate entity basis. The purpose of this subdivision is to decouple from
19 the modification of limitation on business interest allowed under section 2306
20 of the CARES Act.

21 (32) A taxpayer must add the amount of any forgiveness of indebtedness on a
22 covered loan. The term "covered loan" has the same meaning as defined in
23 section 1106 of the CARES Act. The purpose of this subdivision is to
24 decouple from the loan forgiveness allowed under section 1106 of the CARES
25 Act.

26 **SECTION 1.(c)** G.S. 105-153.5(a)(2)a. reads as rewritten:

27 "a. Charitable Contribution. – The amount allowed as a deduction for charitable
28 contributions under section 170 of the Code for that taxable year. For taxable years 2014 through
29 2018, a taxpayer who elected to take the income exclusion under section 408(d)(8) of the Code
30 for a qualified charitable distribution from an individual retirement plan by a person who has
31 attained the age of 70 1/2 may deduct the amount that would have been allowed as a charitable
32 deduction under section 170 of the Code had the taxpayer not elected to take the income
33 exclusion. For taxable year 2020, notwithstanding G.S. 105-228.90(b)(1b), the term "Code" is
34 the Internal Revenue Code as enacted as of January 1, 2020. For taxable years beginning on or



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1 after January 1, 2021, a taxpayer may only carry forward the charitable contributions from
2 taxable year 2020 that exceed the applicable percentage limitation for the 2020 taxable year
3 allowed under this sub-subdivision. The purpose for defining the Code differently for the 2020
4 taxable year is to decouple from the modification of limitations on charitable contributions during
5 2020 allowed under section 2205 of the CARES Act."

6 **SECTION 1.(d)** G.S. 105-153.5(a)(2)b. reads as rewritten:

7 "b. Mortgage Expense and Property Tax. – The amount allowed as a deduction for
8 interest paid or accrued during the taxable year under section 163(h) of the Code with respect to
9 any qualified residence plus the amount allowed as a deduction for property taxes paid or accrued
10 on real estate under section 164 of the Code for that taxable year. For taxable years ~~2014, 2015,~~
11 ~~2016, and 2017,~~ 2014 through 2020, the amount allowed as a deduction for interest paid or
12 accrued during the taxable year under section 163(h) of the Code with respect to any qualified
13 residence shall not include the amount for mortgage insurance premiums treated as qualified
14 residence interest. The amount allowed under this sub-subdivision may not exceed twenty
15 thousand dollars (\$20,000). For spouses filing as married filing separately or married filing
16 jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may
17 not exceed twenty thousand dollars (\$20,000). For spouses filing as married filing separately
18 with a joint obligation for mortgage interest and real estate taxes, the deduction for these items
19 is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real
20 estate taxes paid by both spouses exceeds twenty thousand dollars (\$20,000), these deductions
21 must be prorated based on the percentage paid by each spouse. For joint obligations paid from
22 joint accounts, the proration is based on the income reported by each spouse for that taxable
23 year."

24 **SECTION 1.(e)** G.S. 105-153.5(c2) read as rewritten:

25 "(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer
26 must make the following adjustments to the taxpayer's adjusted gross income:

27 (1) For taxable years ~~2014, 2015, 2016, and 2017,~~ 2014 through 2020, the
28 taxpayer must add the amount excluded from the taxpayer's gross income for
29 the discharge of qualified principal residence indebtedness under section 108
30 of the Code. The purpose of this subdivision is to decouple from the income
31 exclusion available under federal tax law. If the taxpayer is insolvent, as
32 defined in section 108(d)(3) of the Code, then the addition required under this
33 subdivision is limited to the amount of discharge of qualified principal
34 residence indebtedness excluded from adjusted gross income under section
35 108(a)(1)(E) of the Code that exceeds the amount of discharge of indebtedness
36 that would have been excluded under section 108(a)(1)(B) of the Code.

37 (2) For taxable year ~~2014, 2015, 2016, and 2017,~~ 2014 through 2020, the taxpayer
38 must add the amount of the taxpayer's deduction for qualified tuition and
39 related expenses under section 222 of the Code. The purpose of this
40 subdivision is to decouple from the above-the-line deduction available under
41 federal tax law.

42 ...

43 (8) For taxable years 2013, 2014, 2015, 2016, or 2017, the taxpayer must add the
44 amount of any 2018 net operating loss deducted and absorbed on a federal
45 return under section 172 of the Code. The purpose of the adjustments made
46 under this subdivision is to decouple from the net operating loss carryback
47 provisions of section 2303 of the CARES Act. The addition under this
48 subsection is not required to the extent the 2018 net operating loss is carried
49 back under the provisions of section 172(b)(1)(B) of the Code.

50 (9) For taxable years 2014, 2015, 2016, 2017, or 2018, the taxpayer must add the
51 amount of any 2019 net operating loss deducted and absorbed on a federal

1 return under section 172 of the Code. The purpose of the adjustments made
2 under this subdivision is to decouple from the net operating loss carryback
3 provisions of section 2303 of the CARES Act. The addition under this
4 subsection is not required to the extent the 2019 net operating loss is carried
5 back under the provisions of section 172(b)(1)(B) of the Code.

6 (10) For taxable years 2015, 2016, 2017, 2018, or 2019, the taxpayer must add the
7 amount of any 2020 net operating loss deducted and absorbed on a federal
8 return under section 172 of the Code. The purpose of the adjustments made
9 under this subdivision is to decouple from the net operating loss carryback
10 provisions of section 2303 of the CARES Act. The addition under this
11 subdivision is not required to the extent the 2020 net operating loss is carried
12 back under the provisions of section 172(b)(1)(B) of the Code.

13 (11) For taxable years 2018, 2019, and 2020, the taxpayer must add an amount
14 equal to the taxpayer's excess business loss, as defined under the provisions
15 of section 461(l) of the Code as enacted as of January 1, 2019. The addition
16 under this subdivision is not required to the extent the loss is added under
17 subdivision (8), (9), or (10) of this subsection.

18 (12) The taxpayer must add the amount by which the taxpayer's net operating loss
19 carryforward deduction exceeds the amount allowed under the provisions of
20 section 172(a)(2)(B) of the Code as enacted as of January 1, 2019. This
21 add-back only applies to net operating losses arising during taxable years
22 2018, 2019, and 2020.

23 (13) For taxable years 2021 through 2025, a taxpayer who made an addition under
24 subdivision (8), (9), or (10) of this subsection may deduct twenty percent
25 (20%) per tax year of the sum of the amount added under subdivisions (8),
26 (9), and (10) of this subsection.

27 (14) A taxpayer who made an addition under subdivision (11) of this subsection
28 may deduct twenty percent (20%) of the addition in each of the taxable years
29 2021 through 2025.

30 (15) A taxpayer who made an addition under subdivision (12) of this subsection
31 may deduct twenty percent (20%) of the add-back in each of the taxable years
32 2021 through 2025.

33 (16) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the
34 amount by which the taxpayer's interest expense deduction under section
35 163(j) of the Code exceeds the interest expense deduction that would have
36 been allowed under the Code as enacted as of January 1, 2020. The purpose
37 of this subdivision is to decouple from the modification of limitation on
38 business interest allowed under section 2306 of the CARES Act.

39 (17) For taxable year 2020, a taxpayer must add the amount excluded from the
40 taxpayer's gross income for payment by an employer, whether paid to the
41 taxpayer or to a lender, of principal or interest on any qualified education loan,
42 as defined in section 221(d)(1) of the Code, incurred by the taxpayer for
43 education of the taxpayer. The purpose of this subdivision is to decouple from
44 the exclusion for certain employer payments of student loans under section
45 2206 of the CARES Act.

46 (18) For taxable year 2020, a taxpayer must add the amount excluded from the
47 taxpayer's gross income under section 62(a)(22) of the Code. The purpose of
48 this subdivision is to decouple from the allowance of a partial above-the-line
49 deduction of qualified charitable contributions under section 2204 of the
50 CARES Act.

1 (19) A taxpayer must add the amount of any forgiveness of indebtedness on a
2 covered loan. The term "covered loan" has the same meaning as defined in
3 section 1106 of the CARES Act. The purpose of this subdivision is to
4 decouple from the loan forgiveness allowed under section 1106 of the CARES
5 Act."
6

7 **PART II. EXCISE TAX CHANGES**

8 **SECTION 2.1.** G.S. 105-113.4(10) reads as rewritten:

9 "(10) Sale. – ~~A transfer,~~ transfer of possession, transfer of ownership, a trade, an exchange,
10 or a barter, in any manner or by any means, with or without consideration."

11 **SECTION 2.2.(a)** G.S. 105-113.4A reads as rewritten:

12 **"§ 105-113.4A. Licenses.**

13 (a) General. – To obtain or renew a license required by this Article, an applicant must
14 file an application with the Secretary on a form provided by the Secretary and pay the tax due for
15 the license. An application must include the applicant's name, address, federal employer
16 identification number, and any other information required by the Secretary. A license is not
17 transferable or assignable and must be displayed in a conspicuous place at the each place of
18 business for which it is issued.

19 ...

20 (h) Lists. – The Secretary must ~~provide~~ make available the list required under subdivision
21 (3) of subsection (g) of this section upon request of a manufacturer that is a licensee under this
22 Article. The list must state the name, account number, and business address of each licensee on
23 the list."

24 **SECTION 2.2.(b)** G.S. 105-259(b)(50) reads as rewritten:

25 "(50) To ~~provide public access to~~ make available a list containing the name, physical
26 address, and account number of entities licensed under Article 2A of this Chapter to ~~aid in the~~
27 ~~administration of the tobacco products tax~~ all entities licensed under Article 2A of this Chapter."

28 **SECTION 2.2.(c)** G.S. 105-449.77(b) reads as rewritten:

29 "(b) Lists. – The Secretary must ~~annually give~~ make available to each licensee a list to
30 ~~each licensee~~ of all the licensees under this Article. The list must state the name, account number,
31 and business address of each licensee on the list. The Secretary must ~~send a monthly update of~~
32 ~~the list to each licensed refiner or licensed supplier and to any other licensee that requests a copy~~
33 ~~of the list monthly."~~

34 **SECTION 2.2.(d)** G.S. 105-449.139(c) reads as rewritten:

35 "(c) Lists. – The Secretary must ~~give~~ make available a list of licensed alternative fuel
36 providers to each licensed bulk end-user and licensed retailer. The Secretary must also ~~give~~ make
37 available a list of licensed bulk end-users and licensed retailers to each licensed alternative fuel
38 provider. A list must state the name, account number, and business address of each licensee on
39 the list. The Secretary must ~~send an annual update of a list~~ the lists required under this section to
40 ~~each licensee, as appropriate, annually."~~

41 **SECTION 2.3.(a)** G.S. 105-113.4B reads as rewritten:

42 **"§ 105-113.4B. Cancellation or revocation of license.**

43 (a) ~~Reasons-Cancellation.~~ – The Secretary may cancel a license issued under this Article
44 upon the written request of the ~~licensee~~ licensee. The licensee's request must include a proposed
45 effective date of cancellation. The licensee must and the immediate return of the license to the
46 ~~Secretary.~~ Secretary on or before the proposed effective date. If the licensee's request does not
47 include a proposed effective date of cancellation, the license is cancelled 15 days after the
48 Department receives the written request. If the license is unable to be returned, the licensee must
49 include a written statement of the reasons, satisfactory to the Secretary, why the license cannot
50 be returned. The Secretary shall notify the licensee when the license is cancelled.

1 (a1) Revocation. – The Secretary may summarily revoke a license issued under this Article
2 when the Secretary finds that the licensee is incurring liability for the tax imposed under this
3 Article after failing to pay a tax when due under this Article. In addition, the Secretary may
4 revoke the license of a licensee that commits one or more of the following acts after holding a
5 hearing on whether the license should be revoked:

6 ...

7 (b) Procedure. – The Secretary must send a person whose license is summarily revoked
8 a notice of the revocation and must give the person an opportunity to have a hearing on the
9 revocation within 10 days after the revocation. The Secretary must give a person whose license
10 may be revoked after a hearing at least 10 days' written notice of the date, time, and place of the
11 hearing. A notice of a summary license revocation and a notice of hearing must be sent by
12 certified mail to the last known address of the licensee. If the person whose license may be
13 revoked fails to attend the noticed hearing, the license revocation is effective 15 days after the
14 noticed hearing.

15 "

16 **SECTION 2.3.(b)** G.S. 105-449.76 reads as rewritten:

17 **"§ 105-449.76. Cancellation or revocation of license.**

18 (a) ~~Reasons.~~Cancellation. – The Secretary may cancel a license issued under this Article
19 upon the written request of the ~~licensee~~ licensee. The licensee's request must include a proposed
20 effective date of cancellation and the immediate must return of the license to the
21 Secretary. Secretary on or before the proposed effective date. If the licensee's request does not
22 include a proposed effective date of cancellation, the license is cancelled 15 days after the
23 Department receives the written request. If the license is unable to be returned, the licensee must
24 include a written statement of the reasons, satisfactory to the Secretary, why the license cannot
25 be returned. The Secretary shall notify the licensee when the license is cancelled.

26 (a1) Revocation. – The Secretary may summarily revoke a license issued under this Article
27 when the Secretary finds that the licensee is incurring liability for the tax imposed under this
28 Article after failing to pay a tax when due under this Article. In addition, the Secretary may
29 revoke the license of a licensee that commits one or more of the acts listed in G.S. 105-449.120
30 after holding a hearing on whether the license should be revoked.

31 (b) Procedure. – The Secretary must send a person whose license is summarily revoked
32 a notice of the revocation and must give the person an opportunity to have a hearing on the
33 revocation within 10 days after the revocation. The Secretary must give a person whose license
34 may be revoked after a hearing at least 10 days' written notice of the date, time, and place of the
35 hearing. A notice of a summary license revocation and a notice of hearing must be sent by
36 certified mail to the last known address of the licensee. If the person whose license may be
37 revoked fails to attend the noticed hearing, the license revocation is effective 15 days after the
38 noticed hearing.

39 "

40 **SECTION 2.4.** G.S. 105-113.4E reads as rewritten:

41 **"§ 105-113.4E. Modified risk tobacco products.**

42 ...

43 (c) Substantiation. – Generally, tobacco products are subject to the tax imposed under
44 this Article, unless a ~~taxpayer~~ manufacturer substantiates that a product qualifies as a modified
45 risk tobacco product and is subject to a reduced rate of tax in accordance with subsection (b) of
46 this section. A ~~taxpayer~~ manufacturer may substantiate that a product qualifies as a modified risk
47 tobacco product by providing the Department a copy of the order issued by the United States
48 Food and Drug Administration verifying the product as a modified risk tobacco product. Once
49 the ~~taxpayer~~ manufacturer provides the order to the Department, the Department must reduce the
50 tax due as required under subsection (b) of this section effective on the first day of the next
51 calendar month. If the order indicating a product qualifies as a modified risk tobacco product is

1 renewed, the manufacturer must provide the order renewing the product ~~must be provided~~ to the
2 Department within 14 days of receipt.

3 (d) **Forfeiture.** – If the product no longer qualifies as a modified risk tobacco product, the
4 rate reduction under subsection (b) of this section is forfeited. A product no longer qualifies when
5 the order qualifying the product as a modified risk tobacco product expires and is not renewed or
6 the order is withdrawn by the United States Food and Drug Administration. The ~~taxpayer~~
7 manufacturer must provide notice of such expiration or withdrawal to the Department within 14
8 days of receipt. Upon determination by the Department that the product no longer qualifies as a
9 modified risk tobacco product, the Department must determine if the taxpayer paid a reduced
10 rate after the order expired or was withdrawn. If the taxpayer did avoid taxes, the taxpayer is
11 liable for all past taxes avoided as a result of the product no longer qualifying plus interest at the
12 rate established under G.S. 105-241.21, computed from the date the taxes would have been due
13 if the rate reduction had not been allowed. The past taxes and interest are due 30 days after the
14 date the rate reduction is forfeited; a taxpayer that fails to pay the past taxes and interest by the
15 due date is subject to the penalties provided in G.S. 105-236."

16 **SECTION 2.5.(a)** Part 1 of Article 2A of Chapter 105 of the General Statutes is
17 amended by adding a new section to read:

18 **"§ 105-113.4G. Records to be kept.**

19 Every person required to be licensed under this Article and every person required to make
20 reports under this Article shall keep complete and accurate records of all purchases, inventories,
21 sales, shipments, and deliveries of tobacco products, and other information as required under this
22 Article. The records shall be in the form prescribed by the Secretary and shall be open at all times
23 for inspection by the Secretary or an authorized representative of the Secretary.

24 These records shall be safely preserved for a period of three years in a manner to ensure their
25 security and accessibility for inspection by the Department."

26 **SECTION 2.5.(b)** G.S. 105-113.26 and G.S. 105-113.40 are repealed.

27 **SECTION 2.6.(a)** G.S. 105-113.13(b) reads as rewritten:

28 "(b) The Secretary may require a licensed distributor to furnish a bond in an amount that
29 adequately protects the State from ~~loss if the licensed distributor fails a licensed distributor's~~
30 failure to pay taxes due under this Part. A bond must be conditioned on compliance with this
31 Part, payable to the State, and in the form required by the Secretary. The amount of the bond is
32 two times the licensed distributor's average expected monthly tax liability under this Article, as
33 determined by the Secretary, provided the amount of the bond may not be less than two thousand
34 dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary
35 should periodically review the sufficiency of bonds required of the licensed distributor and
36 increase the required bond amount if the amount no longer covers the anticipated tax liability of
37 the licensed distributor and decrease the amount if the Secretary finds that a lower bond amount
38 will protect the State adequately from loss.

39 For purposes of this section, a licensed distributor may substitute an irrevocable letter of
40 credit for the secured bond required by this section. The letter of credit must be issued by a
41 commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter
42 of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this
43 Article, and in the amounts stipulated in this section."

44 **SECTION 2.6.(b)** G.S. 105-113.38 reads as rewritten:

45 **"§ 105-113.38. Bond or irrevocable letter of credit.**

46 The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount
47 that adequately protects the State from ~~loss if the dealer fails a wholesale dealer's or a retail~~
48 dealer's failure to pay taxes due under this Part. A bond must be conditioned on compliance with
49 this Part, payable to the State, and in the form required by the Secretary. The amount of the bond
50 is two times the wholesale or retail dealer's average expected monthly tax liability under this
51 Article, as determined by the Secretary, provided the amount of the bond may not be less than

1 two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The
2 Secretary should periodically review the sufficiency of bonds required of dealers, and increase
3 the amount of a required bond when the amount of the bond furnished no longer covers the
4 anticipated tax liability of the wholesale dealer or retail dealer and decrease the amount when the
5 Secretary determines that a smaller bond amount will adequately protect the State from loss.

6 For purposes of this section, a wholesale dealer or a retail dealer may substitute an irrevocable
7 letter of credit for the secured bond required by this section. The letter of credit must be issued
8 by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The
9 letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with
10 this Article, and in the amounts stipulated in this section."

11 **SECTION 2.7.** G.S. 105-113.27(b) reads as rewritten:

12 "(b) ~~No~~Except as otherwise provided in this Article, no person shall sell or offer for sale
13 non-tax-paid cigarettes."

14 **SECTION 2.8.(a)** G.S. 105-187.76(2) reads as rewritten:

15 "(2) Commission. – The ~~Mining and Energy~~Oil and Gas Commission."

16 **SECTION 2.8.(b)** G.S. 105-187.77(d) reads as rewritten:

17 "(d) Marginal Gas Rate. – The producer of a proposed or existing gas well may apply to
18 the ~~Mining and Energy~~ Commission for a determination that the well qualifies as a marginal gas
19 well. The producer may elect to have the gas taxed at the marginal gas rate or the gas rate. For
20 severance of gas from a marginal gas well the percentage rate is six-tenths of one percent (0.6%)."

21 **SECTION 2.8.(c)** 105-187.80(h) reads as rewritten:

22 "(h) Commission Determination. – To claim the marginal gas rate, the producer or
23 taxpayer of a proposed or existing gas well shall provide to the Secretary proof that the ~~Mining~~
24 ~~and Energy~~ Commission has determined the well qualifies as a marginal gas well."

25 **SECTION 2.9.** G.S. 105-449.37(a)(1) reads as rewritten:

26 "(1) International Fuel Tax Agreement. – The Articles of Agreement adopted by the
27 International Fuel Tax Association, Inc., as amended as of ~~January 1, 2017~~December 1, 2018."

28 **SECTION 2.10.(a)** G.S. 105-449.47(a1) reads as rewritten:

29 "(a1) License and Decal. – When the Secretary licenses a motor carrier, the Secretary must
30 issue a license for the motor carrier and a set of decals for each qualified motor vehicle. A motor
31 carrier must keep records of decals issued to it and must be able to account for all decals it
32 receives from the Secretary. Licenses and decals issued by the Secretary are for a calendar year.
33 All decals issued by the Secretary remain the property of the State. The Secretary may revoke a
34 license or a decal when a motor carrier fails to comply with this Article or Article 36C or 36D of
35 this Subchapter.

36 A motor carrier must carry a copy of its license in each motor vehicle operated by the motor
37 carrier when the vehicle is in this State. ~~A~~Unless operating under a temporary permit under
38 G.S. 105-449.49, a motor vehicle must clearly display one decal on each side of the vehicle at all
39 times. A decal must be affixed to the qualified motor vehicle for which it was issued in the place
40 and manner designated by the authority that issued it."

41 **SECTION 2.10.(b)** G.S. 105-449.49 reads as rewritten:

42 "**§ 105-449.49. Temporary permits.**

43 (a) ~~Issuance~~Permitting Service. – Upon application to the Secretary and payment of a
44 fee of fifty dollars (\$50.00), a permitting service may obtain a temporary permit authorizing a
45 motor carrier to operate a vehicle in the State for three days without licensing the vehicle in
46 accordance with G.S. 105-449.47. The permitting service may sell the temporary permit to a
47 motor carrier. A motor carrier to whom a temporary permit has been issued may elect not to
48 report its operation of the vehicle during the three-day period. Fees collected under this
49 subsection are credited to the Highway Fund.

50 ...

1 (c) Licensed Motor Carrier. – A licensed motor carrier in North Carolina, who is subject
2 to the International Fuel Tax Agreement, may apply for a temporary permit authorizing the motor
3 carrier to operate a qualified motor vehicle in the State for 30 days without a decal. The licensed
4 motor carrier must be in compliance with this Article, and the application must be on a form
5 prescribed by the Secretary and contain information required by the Secretary.

6 (d) Permit. – A motor carrier operating under a temporary permit issued pursuant to this
7 section must keep a copy of the permit in the motor vehicle."

8 **SECTION 2.11.** G.S. 105-449.69A reads as rewritten:

9 "**§ 105-449.69A. Temporary license during disaster response period.**

10 (a) Temporary License. – The Secretary may grant a temporary license to an applicant to
11 import, export, distribute, or transport motor fuel in this State in response to a state of emergency
12 or a disaster declaration. The term-terms "state of emergency" and "disaster declaration" has-have
13 the same meaning as defined in G.S. 166A-19.3. The temporary license expires upon the
14 expiration of the disaster declaration. A temporary license is effective on the date the applicant
15 engages in business in this State and expires 30 days after that date. Prior to the expiration of the
16 temporary license, the licensee may request, on a form prescribed by the Secretary, that the
17 license be extended for an additional 30 days, if the state of emergency or disaster declaration
18 remains in effect. A temporary license issued under this section may not be renewed or a new
19 temporary license granted if the licensee failed to file the required returns or make payments of
20 the required taxes comply with this Article.

21 (b) Requirements. – To obtain a temporary license, a person must file an application with
22 the Secretary on a form prescribed by the Secretary within seven calendar days from the date of
23 the disaster declaration. An of engaging in business in this State. The application must be filed
24 when a state of emergency or a disaster declaration is in effect and must include all of the
25 following information:

26 "

27 **SECTION 2.12.** G.S. 105-449.134 reads as rewritten:

28 "**§ 105-449.134. Denial, revocation, or cancellation of license.**

29 The Secretary may deny an application for a license or cancel or revoke a license under this
30 Article for the same reasons that the Secretary may deny an application for a license or cancel or
31 revoke a license under Article 36C of this Chapter. The procedure in Article 36C for cancelling
32 or revoking a license applies to the cancellation or revocation of a license under this Article."

33 **SECTION 2.13.** G.S. 119-19(b) reads as rewritten:

34 "(b) Procedure. – The Secretary must send a person whose license is summarily revoked
35 a notice of the revocation and must give the person an opportunity to have a hearing on the
36 revocation within 10 days after the revocation. The Secretary must give a person whose license
37 may be revoked after a hearing at least 10 days' written notice of the date, time, and place of the
38 hearing. A notice of a summary license revocation and a notice of hearing must be sent by
39 registered-certified mail to the last known address of the licensee."

40 **PART III. SALES AND USE TAX CHANGES**

41 **SECTION 3.1.(a)** G.S. 105-164.14 reads as rewritten:

42 "**§ 105-164.14. Certain refunds authorized.**

43 ...

44 (b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual
45 refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal
46 property and services-items for use in carrying on the work of the nonprofit entity. Sales and use
47 tax liability indirectly incurred by a nonprofit entity through reimbursement to an authorized
48 person of the entity for the purchase of tangible personal property and services for use in carrying
49 on the work of the nonprofit entity is considered a direct purchase by the entity. Sales and use
50 tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and
51

1 equipment that become a part of or annexed to any building or structure that is owned or leased
2 by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity
3 for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct
4 purchases by the nonprofit entity. The refund allowed under this subsection does not apply to
5 purchases of electricity, telecommunications service, ancillary service, piped natural gas, video
6 programming, or a prepaid meal plan. A request for a refund must be in writing and must include
7 any information and documentation required by the Secretary. A request for a refund for the first
8 six months of a calendar year is due the following October 15; a request for a refund for the
9 second six months of a calendar year is due the following April 15. The aggregate annual refund
10 amount allowed an entity under this subsection for the State's fiscal year may not exceed
11 thirty-one million seven hundred thousand dollars (\$31,700,000).

12 The refunds allowed under this subsection do not apply to an entity that is owned and
13 controlled by the United States or to an entity that is owned or controlled by the State and is not
14 listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual
15 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
16 out its work. The following nonprofit entities are allowed a refund under this subsection:

17 ...

18 (c) Certain Governmental Entities. – A governmental entity listed in this subsection is
19 allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases
20 of ~~tangible personal property and services items~~. Sales and use tax liability indirectly incurred
21 by a governmental entity on building materials, supplies, fixtures, and equipment that become a
22 part of or annexed to any building or structure that is owned or leased by the governmental entity
23 and is being erected, altered, or repaired for use by the governmental entity is considered a sales
24 or use tax liability incurred on direct purchases by the governmental entity for the purpose of this
25 subsection. The refund allowed under this subsection does not apply to purchases of electricity,
26 telecommunications service, ancillary service, piped natural gas, video programming, or a
27 prepaid meal plan. A request for a refund must be in writing and must include any information
28 and documentation required by the Secretary. A request for a refund is due within six months
29 after the end of the governmental entity's fiscal year.

30 This subsection applies only to the following governmental entities:

31"

32 **SECTION 3.1.(b)** This section becomes effective July 1, 2020, and applies to
33 purchases made on or after that date.

34 **SECTION 3.2.** G.S. 105-164.16(d) reads as rewritten:

35 "(d) Use Tax on ~~Out-of-State Purchases~~. – Use tax payable by an individual who purchases
36 an item, other than a boat or aircraft, ~~outside the State~~ for a nonbusiness purpose is due on an
37 annual basis. For an individual who is not required to file an individual income tax return under
38 Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar
39 year and a use tax return is due by the following April 15. For an individual who is required to
40 file an individual income tax return, the annual reporting period ends on the last day of the
41 individual's income tax year, and the use tax must be paid on the income tax return as provided
42 in G.S. 105-269.14."

43 **SECTION 3.3.(a)** G.S. 105-164.4J reads as rewritten:

44 "**§ 105-164.4J. Marketplace-facilitated sales.**

45 (a) Scope. – This section applies to a marketplace facilitator engaged in business in this
46 State that makes sales, including all marketplace facilitated sales for all marketplace sellers,
47 sourced to this State for the previous or the current calendar year that meet either of the following:

48 (1) ~~Gross sales in excess of one hundred thousand dollars (\$100,000).~~

49 (2) ~~Two hundred or more separate transactions.~~

50 (b) Payment of Tax. – A marketplace facilitator ~~that meets the threshold in subsection (a)~~
51 ~~of subject to~~ this section is considered the retailer of each marketplace-facilitated sale it makes

1 and is liable for collecting and remitting the sales and use tax on all such sales. A marketplace
2 facilitator is required to comply with the same requirements and procedures as all other retailers
3 registered or who are required to be registered to collect and remit sales and use tax in this State.
4 A marketplace facilitator is required to collect and remit sales tax as required by this section
5 regardless of whether a marketplace seller for whom it makes a marketplace-facilitated sale meets
6 any of the following conditions:

7"

8 **SECTION 3.3.(b)** This section becomes effective July 1, 2020, and applies to sales
9 occurring on or after that date.

10 **SECTION 3.4.** G.S. 105-164.4(a)(1) reads as rewritten:

11 "(1) The general rate of tax applies to the following items sold at retail:

12 ...

- 13 b. The sales price of certain digital property. The tax applies regardless
14 of whether the purchaser of the property has a right to use it
15 permanently or to use it without making continued payments. The sale
16 at retail or the use, storage, or consumption in this State of a digital
17 code is treated the same as the sale at retail or the use, storage, or
18 consumption in this State of certain digital property for which the
19 digital code relates."

20 **SECTION 3.5.(a)** G.S. 153A-154.1 reads as rewritten:

21 "**§ 153A-154.1. Uniform ~~penalties-provisions~~ for local meals taxes.**

22 (a) Scope. – This section applies to every county authorized by the General Assembly to
23 levy a meals tax. To the extent this section conflicts with any provision of a local act, this section
24 supersedes that provision.

25 (b) Collection. – A retailer who is required to remit to the Department of Revenue the
26 State and local sales and use tax is required to remit the local meals tax on prepared food and
27 beverages to the taxing county on and after the effective date of the levy of the local meals tax.

28 (a)(c) Penalties. – ~~Notwithstanding any other provision of law, the~~ The civil and criminal
29 penalties that apply to State sales and use taxes under Chapter 105 of the General Statutes apply
30 to local meals taxes. The governing board of a taxing county has the same authority to waive the
31 penalties for a local meals tax that the Secretary of Revenue has to waive the penalties for State
32 sales and use taxes.

33 (d) Definitions. – The following definitions apply in this section:

34 (1) Meals tax. – A tax on prepared food and beverages.

35 (2) Prepared food and beverages. – The term means both of the following:

36 a. Prepared food, as defined in G.S. 105-164.3.

37 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets at least
38 one of the conditions of prepared food under G.S. 105-164.3.

39 (b) Scope. – ~~This section applies to every county authorized by the General Assembly to~~
40 ~~levy a meals tax. As used in this section, the term "meals tax" means a tax on prepared food and~~
41 ~~drink."~~

42 **SECTION 3.5.(b)** G.S. 160A-214.1 reads as rewritten:

43 "**§ 160A-214.1. Uniform ~~penalties-provisions~~ for local meals taxes.**

44 (a) Scope. – This section applies to every city authorized by the General Assembly to
45 levy a meals tax. To the extent this section conflicts with any provision of a local act, this section
46 supersedes that provision.

47 (b) Collection. – A retailer who is required to remit to the Department of Revenue the
48 State and local sales and use tax is required to remit the local meals tax on prepared food and
49 beverages to the taxing city on and after the effective date of the levy of the local meals tax.

50 (a)(c) Penalties. – ~~Notwithstanding any other provision of law, the~~ The civil and criminal
51 penalties that apply to State sales and use taxes under Chapter 105 of the General Statutes apply

1 to local meals taxes. The governing board of a taxing city has the same authority to waive the
2 penalties for a meals tax that the Secretary of Revenue has to waive the penalties for State sales
3 and use taxes.

4 ~~(b) Scope.—This section applies to every city authorized by the General Assembly to~~
5 ~~levy a meals tax.~~

6 ~~(e)~~(d) Definitions. – The following definitions apply in this section:

7 (1) City. – A municipality.

8 (2) Meals tax. – A tax on prepared food and ~~drink~~ beverages.

9 (3) Prepared food and beverages. – The term means both of the following:

10 a. Prepared food, as defined in G.S. 105-164.3.

11 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets at least
12 one of the conditions of prepared food under G.S. 105-164.3."

13 **SECTION 3.5(c)** This section becomes effective July 1, 2020, and applies to sales
14 occurring on or after that date.

15 16 **PART IV. PERSONAL INCOME TAX CHANGES**

17 **SECTION 4.1.** G.S. 105-131.8(a) reads as rewritten:

18 "(a) For purposes of G.S. ~~105-151~~105-153.9 and G.S. 105-160.4, each resident
19 shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to
20 the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that
21 does not measure the income of S Corporation shareholders by the income of the S Corporation.
22 For purposes of the preceding sentence, the term "net income tax" means any tax imposed on or
23 measured by a corporation's net income."

24 **SECTION 4.2.** G.S. 105-153.5(b)(10) is repealed.

25 **SECTION 4.3.** G.S. 105-154(d) reads as rewritten:

26 "(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted
27 in this State is owned by a nonresident individual or by a partnership having one or more
28 nonresident members, the manager of the business shall report information concerning the
29 earnings of the business in this State, the distributive share of the income of each nonresident
30 owner or partner, and any other information required by the Secretary. The distributive share of
31 the income of each nonresident partner includes any guaranteed payments made to the partner.
32 The manager of the business shall pay with the return the tax on each nonresident owner or
33 partner's share of the income computed at the rate levied on individuals under G.S. 105-153.7.
34 The business may deduct the payment for each nonresident owner or partner from the owner or
35 partner's distributive share of the income of the business in this State. If the nonresident partner
36 is not an individual and the partner has executed an affirmation that the partner will pay the tax
37 with its corporate, partnership, trust, or estate income tax return, the manager of the business is
38 not required to pay the tax on the partner's share. In this case, the manager shall include a copy
39 of the affirmation with the report required by this subsection. The affirmation must be annually
40 filed by the nonresident partner and submitted by the manager by the due date of the report
41 required in this subsection. Otherwise, the manager of the business is required to pay the tax on
42 the nonresident partner's share. Notwithstanding the provisions of G.S. 105-241.7(b), the
43 manager of the business may not request a refund of an overpayment made on behalf of a
44 nonresident owner or partner if the manager of the business has previously filed the return and
45 paid the tax due. The nonresident owner or partner may, on its own income tax return, request a
46 refund of an overpayment made on its behalf by the manager of the business within the provisions
47 of G.S. 105-241.6."

48 **SECTION 4.4.(a)** G.S. 105-228.90(b) reads as rewritten:

49 "(b) Definitions. – The following definitions apply in this Article:

50 ...

1 (9) Taxpayer Identification Number (TIN). – An identification number issued by
2 the Social Security Administration or the Internal Revenue Service, excluding
3 a Taxpayer Identification Number for Pending U.S. Adoptions (ATIN) and
4 Preparer Taxpayer Identification Number (PTIN).

5 (10) Truncated Taxpayer Identification Number (TTIN). – This term has the same
6 meaning as defined in Treasury Regulation Section 301.6109-4."

7 **SECTION 4.4.(b)** Article 9 of Chapter 105 of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 105-252.1. Use of a TTIN.**

10 A TTIN may not be used on any return, statement, or other document required to be filed
11 with or furnished to the Department unless specifically authorized in this Chapter."

12 **SECTION 4.4.(c)** G.S. 105-163.1(12a) reads as rewritten:

13 "(12a) ~~Taxpayer Identification Number (TIN). – An identification number issued by~~
14 ~~the Social Security Administration or the Internal Revenue Service excluding~~
15 ~~Taxpayer Identification Number for Pending U.S. Adoptions (ATIN) and~~
16 ~~Preparer Taxpayer Identification Number (PTIN).~~ Defined in
17 G.S. 105-228.90(b)(9)."

18 **SECTION 4.5.** G.S. 105-241.13 reads as rewritten:

19 **"§ 105-241.13. Action on request for review.**

20 ...

21 (b) Conference. – When the Department and the taxpayer agree that an action taken under
22 subsection (a) or (a1) of this section resolves the taxpayer's objection to the Department's
23 proposed denial of a refund or a proposed assessment, the Department does not need to take
24 further action on the request for review. When an action taken under subsection (a) or (a1) of this
25 section does not resolve the taxpayer's objection to the Department's proposed denial of a refund
26 or a proposed assessment, the Department must schedule a conference with the taxpayer. The
27 Department must set the time and place for the conference, which may include a conference by
28 telephone, and must send the taxpayer notice of the designated time and place. The Department
29 must send the notice at least 30 days before the date of the conference or, if the Department and
30 the taxpayer agree, within a shorter period. The Department and the taxpayer may reschedule the
31 conference by mutual agreement. If a taxpayer fails to attend a scheduled conference on the
32 proposed denial of a refund or a proposed assessment, the Department and the taxpayer are
33 considered to be unable to resolve the taxpayer's objection.

34 The conference is an informal proceeding at which the taxpayer and the Department must
35 attempt to resolve the case. Testimony under oath is not taken, and the rules of evidence do not
36 apply. A taxpayer may designate a representative to act on the taxpayer's behalf. The taxpayer
37 may present any objections to the proposed denial of refund or proposed assessment at the
38 conference and is not limited by the explanation set forth in the taxpayer's request for review.

39 (c) After Conference. – One of the following must occur after the Department conducts
40 a conference on a proposed denial of a refund or a proposed assessment:

41 ...

42 (3) The Department and the taxpayer are unable to resolve the taxpayer's
43 objection to the proposed denial of the refund or proposed assessment. ~~If a~~
44 ~~taxpayer fails to attend a scheduled conference on the proposed denial of a~~
45 ~~refund or a proposed assessment without prior notice to the Department, the~~
46 ~~Department and the taxpayer are considered to be unable to resolve the~~
47 ~~taxpayer's objection."~~

48
49 **PART V. CORPORATE TAX CHANGES**

50 **SECTION 5.1.(a)** G.S. 105-122(b)(2) reads as rewritten:

1 (2) An addition for the amount of indebtedness the corporation owes that creates
2 net interest expense, as defined in G.S. 105-130.7B(b)(3), but does not create
3 qualified interest expense, as defined in G.S. 105-130.7B(b)(4) to a parent, a
4 subsidiary, an affiliate, or a noncorporate entity in which the corporation or
5 an affiliated group of corporations owns directly or indirectly more than fifty
6 percent (50%) of the capital interests of the noncorporate entity. The amount
7 added back to the corporation's net worth may be further adjusted if part of
8 the capital of the creditor is capital borrowed from a source other than a parent,
9 a subsidiary, or an affiliate. The debtor corporation may deduct a
10 proportionate part of the indebtedness based on the ratio of the borrowed
11 capital of the creditor to the total assets of the creditor. For purposes of this
12 subdivision, borrowed capital does not include indebtedness incurred by a
13 bank arising out of the receipt of a deposit and evidenced by a certificate of
14 deposit, a passbook, a cashier's check, a certified check, or other similar
15 document."

16 **SECTION 5.1.(b)** This section is effective for taxable years beginning on or after
17 January 1, 2021, and applicable to the calculation of franchise tax reported on the 2020 and later
18 corporate income tax returns.

19 **SECTION 5.2.(a)** G.S. 105-130.4(1) reads as rewritten:

20 "(1) Wholesale Content Distributors. – A wholesale content distributor's market for
21 receipts is in this State as provided in G.S. 105-130.4A. In no event may the amount of ~~income~~
22 apportioned receipts sourced to this State be less than the amount determined under this
23 subsection. The amount determined under this subsection is the total domestic gross receipts of
24 the wholesale content distributor from advertising and licensing activities multiplied by two
25 percent (2%). For purposes of this section, the term "wholesale content distributor" has the same
26 meaning as defined in G.S. 105-130.4A."

27 **SECTION 5.2.(b)** G.S. 105-122(c1)(1) reads as rewritten:

28 "(1) Statutory. – A corporation that is subject to income tax under Article 4 of this
29 Chapter must apportion its net worth by using the fraction it applies in
30 apportioning its income under that Article. A corporation that is not subject to
31 income tax under Article 4 of this Chapter must apportion its net worth by
32 using the fraction it would be required to apply in apportioning its income if
33 it were subject to that Article. ~~The apportionment fraction for a wholesale~~
34 ~~content distributor, as that term is defined in G.S. 105-130.4A, shall not be~~
35 ~~less than two percent (2%).~~ The apportionment method set out in this
36 subdivision is considered the statutory method of apportionment and is
37 presumed to be the best method of determining the amount of a corporation's
38 net worth attributable to the corporation's business in this State."

39 **SECTION 5.2.(c)** This section is effective for taxable years beginning on or after
40 January 1, 2020.

41 **SECTION 5.3.** Subdivisions (a)(21) and (b)(25) of G.S. 105-130.5 are repealed.

42 **SECTION 5.4.** G.S. 105-130.5A(k) reads as rewritten:

43 "(k) Proposed Assessment or Refund. – If the Secretary redetermines the State net income
44 of the corporation in accordance with this section by adjusting the State net income of the
45 corporation or requiring a combined return, the Secretary shall issue a proposed assessment or
46 refund upon making such redetermination. When a refund is determined in whole or part by a
47 proposed assessment to an affiliated group member under this section, the refund shall not be
48 issued until the proposed assessment to the affiliated group member has become collectable under
49 G.S. 105-241.22. The amount of refund shall reflect any changes made by the Department under
50 this section. ~~The~~ Otherwise, the procedures for a proposed assessment or a refund in Article 9 of
51 Chapter 105 shall be applicable to proposed assessments and refunds made under this section."

1 **SECTION 5.5.** G.S. 105-130.11(b)(4) is repealed.

2
3 **PART VI. TAX ENFORCEMENT AND ADMINISTRATION CHANGES**

4 **SECTION 6.1.** G.S. 105-236.1(a)(3) reads as rewritten:

5 "(3) The following criminal offenses when they involve a tax imposed under
6 Chapter 105 of the General Statutes:

7 ...

8 h. G.S. 105-259 (Secrecy of tax information)."

9 **SECTION 6.2.(a)** G.S. 105-241.8(b)(2) reads as rewritten:

10 "(2) Failure to file or filing false return. – There is no statute of limitations and the
11 Secretary may propose an assessment of tax due from a taxpayer at any time
12 if any of the following applies:

13 ...

14 d. The taxpayer, as a trustee, collected taxes on behalf of the State, but
15 did not remit all the taxes held in trust when due."

16 **SECTION 6.2.(b)** This section is effective when it becomes law and applies to
17 assessments not barred by the statute of limitations prior to that date.

18 **SECTION 6.3.** G.S. 105-242.2 is amended by adding a new subsection to read:

19 "(f) Scope. – This section shall not apply to, or limit, the criminal liability of any person."

20 **SECTION 6.4.(a)** G.S. 105-243.1 reads as rewritten:

21 **"§ 105-243.1. Collection of tax debts.**

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

23 (1) Overdue tax debt. – Any part of a tax debt that remains unpaid ~~90~~60 days or
24 more after it becomes collectible under G.S. 105-241.22. The term does not
25 include a tax debt for which the taxpayer entered into an installment
26 agreement for the tax debt under G.S. 105-237 within ~~90~~60 days after the tax
27 debt became collectible, if the taxpayer has not failed to make any payments
28 due under the installment agreement.

29 ...

30 (d) Fee. – A collection assistance fee is imposed on an overdue tax ~~debt that remains~~
31 ~~unpaid 60 days or more after the tax debt is deemed collectible under G.S. 105-241.22.~~ debt. In
32 order to impose a collection assistance fee on a tax debt, the Department must notify the taxpayer
33 that the fee will be imposed ~~if the tax debt is not paid in full within 60 days after the date the~~
34 ~~notice of collection was mailed to the taxpayer.~~ in accordance with this section at least 60 days
35 prior to its imposition. The fee notice may be included on the notice of collection. The fee is
36 collectible as part of the debt. The Secretary may waive the fee pursuant to G.S. 105-237 to the
37 same extent as if it were a penalty.

38 The amount of the collection assistance fee is twenty percent (20%) of the amount of the
39 overdue tax debt. If a taxpayer pays only part of an overdue tax debt, the payment is credited
40 proportionally to fee revenue and tax revenue.

41 "

42 **SECTION 6.4.(b)** Section 5.1(b) of S.L. 2019-169 reads as rewritten:

43 "**SECTION 5.1.(b)** This section becomes effective ~~January 1, 2020,~~ August 1, 2020, and
44 applies to tax debts that become collectible on or after that date."

45 **SECTION 6.4.(c)** Subsection (a) of this section becomes effective August 1, 2020,
46 and applies to tax debts that become collectible on or after that date. The remainder of this section
47 is effective when it becomes law.

48 **SECTION 6.5.** G.S. 93B-1(3) reads as rewritten:

49 "(3) State agency licensing board. – Any State agency staffed by full-time State
50 employees, which as part of their regular functions issue licenses. This section
51 does not apply to the North Carolina Criminal Justice Education and Training

1 Standards ~~Commission and Commission~~, the North Carolina Sheriffs'
2 Education and Training Standards ~~Commission~~.Commission, and the North
3 Carolina Department of Revenue. The following is a nonexclusive list of State
4 agency licensing boards and the profession or occupation for which the board,
5 agency, or officer may issue licenses:
6"
7

8 **PART VII. EXTEND CERTAIN SUNSETS**

9 **SECTION 7.1.** G.S. 105-269.8(c) reads as rewritten:

10 "(c) Sunset. – This section expires for taxable years beginning on or after January 1,
11 ~~2021-2026~~."

12 **SECTION 7.2.** G.S. 160A-239.1(b) reads as rewritten:

13 "(b) Sunset. – This Article expires July 1, ~~2020~~,2025, for projects that have not been
14 approved under a final assessment resolution. The expiration does not affect the validity of
15 assessments imposed or to be imposed or bonds issued or authorized or to be issued or authorized
16 under the provisions of this Article if a final assessment resolution has been adopted prior to the
17 effective date of the expiration."
18

19 **PART VIII. EFFECTIVE DATE**

20 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes

21 law.