

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**SESSION LAW 2012-74  
HOUSE BILL 1015**

AN ACT TO SET THE REGULATORY FEES, TO CONTINUE THE INDIVIDUAL INCOME TAX DEDUCTION FOR EDUCATOR EXPENSES, AND TO ENHANCE ECONOMIC DEVELOPMENT.

The General Assembly of North Carolina enacts:

**SET REGULATORY FEES**

**SECTION 1.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2012.

**SECTION 1.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2012-2013 fiscal year is two hundred thousand dollars (\$200,000).

**SECTION 1.(c)** The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six percent (6%) for the 2012 calendar year.

**SECTION 1.(d)** Subsections (a) and (b) of this section become effective July 1, 2012. The remainder of this section is effective when it becomes law.

**CONTINUE EDUCATOR EXPENSE DEDUCTION**

**SECTION 2.(a)** G.S. 105-134.6(d) is amended by adding a new subdivision to read:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

...

(9) To the extent a deduction has not been claimed for educator expenses in determining federal adjusted gross income, an eligible educator may deduct an amount not to exceed two hundred fifty dollars (\$250.00) paid or incurred in connection with items listed in this subdivision. This deduction is allowed only to the extent the expense has not been claimed under section 162 of the Code for the taxable year. For purposes of this subdivision, the term "eligible educator" has the same meaning as defined in section 62 of the Code, as it existed on December 31, 2011. In the case of a married couple filing a joint return where both spouses are eligible educators, the maximum dollar amount is five hundred dollars (\$500.00).

a. Books.

b. Supplies, other than nonathletic supplies for courses of instruction in health or physical education.

c. Computer equipment, including related software and services.

d. Supplementary materials used by the eligible educator in the classroom."

**SECTION 2.(b)** This section becomes effective for taxable years beginning on or after January 1, 2012.

**CLARIFY AND EXTEND THE PERIOD OF TIME TO APPLY FOR A SALES TAX REFUND OF AVIATION FUEL PURCHASED BY AN INTERSTATE PASSENGER AIR CARRIER BETWEEN JANUARY 1, 2010, AND JUNE 30, 2011**



**SECTION 3.(a)** For calendar year 2010, an interstate passenger air carrier that is eligible for a refund of sales and use taxes paid on fuel in excess of two million five hundred thousand dollars (\$2,500,000) under G.S. 105-164.14(a1) and G.S. 105-164.14A(a)(1) is subject to the provisions of this section, notwithstanding any provisions of G.S. 105-164.14, G.S. 105-164.14A, or Section 4 of S.L. 2010-166 to the contrary. Notwithstanding the fact that the first six months of 2010 are subject to G.S. 105-164.14(a1) and the last six months of 2010 are subject to G.S. 105-164.14A(a)(1), a taxpayer shall submit one request for a refund for the entire calendar year.

**SECTION 3.(b)** An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of one million two hundred fifty thousand dollars (\$1,250,000) for the period January 1, 2011, through June 30, 2011. The State portion of the refund may not exceed three million one hundred fifty thousand dollars (\$3,150,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). A request for a refund must be in writing and must include any information and documentation required by the Secretary. The request for a refund is due before October 1, 2012. A refund applied for after the due date is barred.

**SECTION 3.(c)** Subsection (b) of this section is effective January 1, 2011, and applies to purchases made on or after that date. The remainder of this section is effective when it becomes law.

### **PERMIT MONEYS FROM THE INDUSTRIAL DEVELOPMENT FUND TO BE USED FOR SEWER IMPROVEMENTS IN ADJOINING COUNTIES**

**SECTION 4.** G.S. 143B-437.01(a) reads as rewritten:

"(a) **Creation and Purpose of Fund.** – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating and retaining jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

- (1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed industrial buildings to be used for eligible industries. To be eligible for funding, the water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity. To be eligible for funding, the sewer infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity, even if the sewer infrastructure is located in a county other than the county in which the building is located.

...."

### **TEMPORARY 20-YEAR CARRYFORWARD FOR ARTICLE 3J TAX CREDITS IF THE TAXPAYER INVESTS MORE THAN ONE HUNDRED MILLION DOLLARS IN A TIER ONE COUNTY**

**SECTION 5.** Notwithstanding the investment requirement of G.S. 105-129.84(c), if the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with an eligible business within a two-year period, at least one hundred million dollars (\$100,000,000) worth of business and real property in a development tier one area, any unused portion of a credit under Article 3J of Chapter 105 of the General Statutes with respect to the establishment that satisfies that condition may be carried forward for the succeeding 20 years. If the taxpayer does not make the required level of investment, the taxpayer shall apply the five-year carryforward period rather than the 20-year

carryforward period. This section is effective for taxable years beginning on or after January 1, 2012, and expires for taxable years beginning on or after January 1, 2013.

#### **TECHNICAL CORRECTION FOR THE PORT ENHANCEMENT ZONE DESIGNATION**

**SECTION 6.(a)** G.S. 143B-437.013(a) reads as rewritten:

"(a) Port Enhancement Zone Defined. – A port enhancement zone is an area that meets all of the following conditions:

- (1) It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census.
- (2) All of the area is located within 25 miles of a State port and is capable of being used to enhance port operations.
- (3) Every census tract and census block group that comprises the area has at least eleven percent (11%) of households with incomes of fifteen thousand dollars (\$15,000) or less."

**SECTION 6.(b)** This section is effective for taxable years beginning on or after January 1, 2013.

#### **ONE-YEAR SALES TAX REFUND FOR PURCHASES OF SPECIALIZED EQUIPMENT USED AT STATE PORTS**

**SECTION 7.** For purchases made on or after July 1, 2012, but before July 1, 2013, a company located at a ports facility for waterborne commerce that purchases specialized equipment to be used at the facility to unload or process bulk cargo to make it suitable for delivery to and use by manufacturing facilities is allowed a refund of all local sales and use taxes paid and a portion of State sales and use taxes paid on the purchases as provided in this section. The portion of the State sales and use taxes that may be refunded is equal to the excess of the State sales and use taxes paid over the amount that would have been due had the taxpayer been subject to tax on the eligible property as if it were mill machinery under Article 5F of Chapter 105 of the General Statutes. A request for a refund under this section must be in writing and must include any information and documentation required by the Secretary. A request for a refund under this section must be made on or after July 1, 2013, and is due before January 1, 2014. Refunds applied for after the due date are barred. Taxes for which a refund is allowed under this section are not an overpayment of tax and do not accrue interest as provided in G.S. 105-241.21.

**EFFECTIVE DATE**

**SECTION 8.** Except as otherwise provided, this act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 21<sup>st</sup> day of June, 2012.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 4:19 p.m. this 26<sup>th</sup> day of June, 2012